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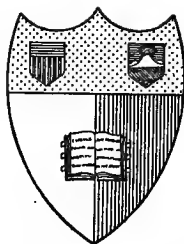
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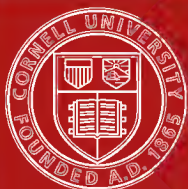
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# CHINA'S FIGHT FOR TARIFF AUTONOMY

AT THE  
WASHINGTON CONFERENCE

BY

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# INTRODUCTION

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Of all the international problems today confronting China, or China's central government, in its relation with other countries, that of the foreign control of China's customs revenue is the most fundamental. Of all the international servitudes with which China is charged, that of a treaty controlled tariff derogates most from her sovereign rights and deprives whatever central government she has of its most logical source of income. Year by year these facts are becoming more and more evident to a constantly increasing number of China's public men and the demand for Tariff Autonomy is growing stronger and stronger.

At the proposed Customs Conference, if it is ever held, China's plea for Tariff Autonomy will be presented with an insistence that can only be disregarded at the expense of subsequent retaliatory provincial and local taxation on imported goods after they reach the hands of the Chinese dealers. The more impatient advocates of Tariff Autonomy appear to have little confidence in the proposed Customs Conference and there

has already been expressed considerable Chinese opposition to the calling of the Conference.

But if more conservative councils prevail the Conference will take place and the Chinese will attend to present their claims. For many weeks past, various newspapers in North China have been running long continued articles on the proposed Customs Conference and have given an extended history of China's tariff problem. There still remains to be published, however, a complete account of China's fight for tariff autonomy at the Washington Conference which was held nearly four years ago. In compiling this account of what happened at Washington I am using only official reports and shall allow the reports to speak for themselves.

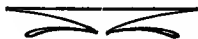
Shortly after the Conference opened, Dr. P. K. C. Tyau, Chinese Minister to Cuba, who was Secretary General of the Chinese Delegation, gave out through the Chinese press bureau a statement under the title "Chinese Appeal For Tariff Autonomy." The statement made a marked impres-

sion on the correspondents at the Conference and it was quite generally quoted in the American press at the time. I reproduce this statement in full in the first chapter of the present publication. I shall then give the official reports of the meetings of the Committee on Pacific and Far Eastern Questions when the question of China's tariff was discussed, followed by the official report on the tariff made at the Sixth Plenary Session of the Conference, held February 4, 1922.

After the Conference adjourned, the question of China's tariff was discussed in the United States while the treaty

was under consideration. I have purposely said "discussed" rather than "debated" for the reason that all the Senators who took part in the discussion seemed to agree that China had much to complain of in the matter of foreign control of her customs. I shall reproduce from the Congressional Record the complete report of these discussions.

After all these records have been presented, practically without comment except for brief necessary explanations, I shall attempt to draw conclusions which I trust my readers will agree are the logical and just ones under the premises.



## CHAPTER I

# CHINESE APPEAL FOR TARIFF AUTONOMY

By

P. K. C. Tyau, Chinese Minister To Cuba, Now Acting As Secretary General  
Of The Chinese Delegation

With reference to the request for tariff autonomy made by the Chinese Delegation on the morning of November 23rd, I have prepared the following statement with a view to further enlightening the public on this question of vital importance to the administrative integrity of China.

Many references have been made recently to the financial embarrassment and to the lack of power of the government of China. Discounting the natural exaggerations of those who for various reasons wish to emphasize these two conditions, we must admit that both charges are substantially correct. Each situation stands reciprocally as part cause and part effect of the other. If the Peking government were not financially embarrassed it would not be weak, and if it were not weak it would not be financially embarrassed. Furthermore this

plight of Peking is detrimental not only to the Chinese but to foreigners and foreign interests in China as well. In fact it is the foreigners' interest in, and their power of, relieving this situation that makes it a natural subject for the agenda of this conference.

Why is the Chinese central government poor and powerless? Why does Peking, the capital of a vast country, actually rich in agricultural products of all kinds and potentially wealthy in mining and industry, the chief city of four hundred million industrious people, many of whom have vast personal wealth, feel forced to discuss with an international conference the conditions of its finances or the extent of its power in its own country? The answer is simple. Because the foreign nations now hold the government of China bound up by uni-lateral treaty obligations, literally forced upon her at the

gun's muzzle, under conditions in China and under former foreign policies of the countries here assembled, both of which have long since changed for the better.

Fully appreciating that this conference is animated by a new sentiment of fairplay and a strong disposition to discover and apply practical solutions to the vexing problems confronting us, we wish to state in entire frankness and in a manner devoid of any spirit of resentment, that the greatest single cause of the financial and other weakness of the Peking government is that China now stands divested of all power over that source of revenue which has been the chief factor in the public finance of every modern national government, the customs tariff.

Through treaty restrictions China is, and has been for years, inflicted by a tariff "of the foreigner, by the foreigner and for the foreigner." China's customs are really controlled by a tariff "for the foreigner only." Foreigners decide what the tariff shall be. It is nominally, though not actually, five per cent ad valorem on practically all imports and exports. It is collected under foreign supervision. The funds are deposited in foreign banks. The first and main charge against the funds is the payment of foreign obligations. The surplus is then released, after periodical consultations and an indispensable

unanimous agreement between the foreign legations in Peking, to the central government of China. Other sources of national revenue, such as the salt monopoly, are likewise foreign administered in virtually the same manner. But we shall for the present confine ourselves to the tariff, as not only typical but as the most important source of public revenue of which the foreign powers have divested the Chinese government.

In Peking, the foreign ministers hold the purse strings. And on more than one occasion an individual minister gives his consent to release the customs surplus only after the Chinese have yielded on some totally extraneous issue, such as the appointment for a term of years of one of his own nationals to a position of emolument in the Chinese government, in which there is no natural connection between the drawing of his salary and manner in which he performs his alleged duties. All students of the development of those popular forms of government for which the world has so long striven fully appreciate the power of those who hold the purse strings. And so irresistible has the temptation to abuse that power been found, that in all progressive countries, it has been lodged ultimately in the people and actually in the most popular branch of the national legislature. The purse strings of the

government of China are lodged ultimately with the foreign treaty powers, and actually with the diplomatocracy of Peking.

Naturally the Peking government is in an almost chronic state of financial embarrassment, and it is also natural that those members of the Peking government who are held personally responsible for the immediate providing of funds should yield to the temptation to borrow at usurious rates from those foreign governments or foreign interests that are willing to provide the funds for an extraneous consideration as far in excess of the value of the actual money advanced as the pressing exigency of the forced borrower exceeds what it would be if he had at his command the sources of public revenue usually available to a minister of finance. The very hopelessness of the case, and the dubious methods which necessity compels one to adopt, often discourages men of high character to risk their reputation in undertaking the thankless job.

Foreigners who appreciate how the normal avenues of public finance are closed to the Peking officials, ease their conscience at the injustice of the case, by the thought that China's financial obligations to the foreigner date from previous generations, and especially from the days of the Boxer troubles, and that they are well founded in international law if not in

international equity. But this is only partially true. The first of China's treaty obligations which began to deprive her of the right of control over her own customs was forced upon her in Article X of the treaty of Nanking in 1842, which terminated what is usually called the Opium War with Great Britain, when China agreed to establish at all ports open to trade "a fair and regular tariff of export and import customs and other dues, which tariff shall be publicly notified and promulgated for general information."

This war arose over a long and bitter dispute between the Peking government and the British over the importation of opium into China, and the *casus belli* was the seizure and destruction by the Chinese, on Chinese soil, of a large quantity of opium belonging to British merchants.

It is hard to draw an exact parallel to this first war between China and one of the powers now in this conference. But if we could imagine a powerful foreign nation insisting, in the interests of its merchants, upon the importation of whiskey into the United States despite the recent prohibition amendment, that the whiskey had been coming in clandestinely for a long time, and that the Washington government in exasperation finally seized and destroyed a large quantity of it found on American soil,

but foreign owned, and furthermore if we could stretch our imagination far enough to picture this foreign nation defeating the Americans in war and dictating tariff provisions in the terms of peace, we would have something similar to the Opium War which brought about the first treaty regulation of China's tariff. Much to the surprise of the Chinese and more to the credit of the British statesmen in saving the reputation of their country, there was no mention of opium in the treaty which terminated the war. But in the agreement containing Rules of Trade, signed between the British and Chinese at Shanghai in 1858, the latter were forced to agree that "Opium will henceforth pay 30 taels per picul import duty. The importer will sell it only at the port. It will be carried into the interior by Chinese only, and only as Chinese property; the foreign trader will not be allowed to accompany it." In judging of these happenings, we should bear in mind, in regard both to the foreigner and the Chinese, that at the middle of the last century, China as a non-Christian nation was not considered as within the pale of international law. In fact it was not until 1856, after Turkey had fought in a war as an ally of Britain and France, that she as the first non-Christian nation was admitted as a member of the family of nations.

It was about this time when the British and French as allies went to war with China, and in the resulting Treaty of Tientsin, in 1858, in the negotiations of which Lord Elgin, the head of the British Embassy said: "Though I have been forced to act most brutally, I am China's friend in all this," that China completely lost her free will in the regulation of her own tariff, which was then pledged to pay a war indemnity of taels 4,000,000. Although other nations made separate treaties with China, the work or privilege of revising China's tariff was left to the English, because their trade was the largest. This Tientsin Treaty was only ratified by the Peking government after British and French troops occupied Peking. History tells of how foreign prisoners were captured by the Chinese in violation of a flag of truce and afterwards tortured, and the same history tells of how the Emperor's palace outside of Peking "was mercilessly plundered by the French troops." The only reason we mention these things is to show that the treaty obligations which obtain today in regard to China's tariff were negotiated more than half a century ago and under conditions on both sides which are quite altered today.

Those foreigners who selfishly support the present stringent treaty regulations regarding China's tariff constantly attempt

to make them appear as the result of the Boxer troubles, as they do with other wrongs which China is seeking to have righted. The action of the Germans in Shantung is a good example. Germany seized Kiaochao, in Shantung, November 14, 1897. The pretext she used was that two German missionaries were killed in the province by robbers. The missionaries were Jesuits, and at that very time the Jesuit order was excluded from the German Empire because it was regarded as dangerous to the safety of the state. But these same German Jesuits were allowed in China and the German Emperor seized on their mishap to grasp Chinese territory. On March 6, of the following year, China was forced to lease Kiaochao to Germany. A few weeks afterwards she was forced to lease Port Arthur to Russia, France received Kwangchow and Great Britain took Weihaiwei, all within a few weeks. Italy made demands but China dared refuse them. All that the United States demanded, not of China, but of the powers who were despoiling her, was the recognition of the Open Door policy, which Secretary Hay announced in 1899. None of these seizures of Chinese territory was the result of the Boxer troubles, but each was on the contrary, one of the causes of this anti-foreign movement which broke

out in 1900. Other results can likewise be traced to Germany's political move after the killing of the Jesuit missionaries, whom she herself excluded from her territory. Russia's taking of Port Arthur was the indirect cause of the Russo-Japanese War and Japan's subsequent militaristic policy. It was likewise the direct cause of the Anglo-Japanese Alliance in its first form, in which the independence of Korea was among the things guaranteed.

The greatest loss to China after the subsequent Boxer troubles, was not so much the \$334,000,000 indemnity but the stringent international treaty regulations forced upon her, by which foreign control of her customs was further strengthened, and given such an international character as to make any change in the tariff regulations of China a question of unanimous international consent of the treaty-powers. That the indemnity itself, at least in amount, was unjust to China has been explicitly recognized by practically all the powers; first by the United States in renouncing her surplus share and then by the other powers during the World War who agreed to permit China to suspend payments of the indemnity for a period of five years after the termination of the Great War. But the far more serious wrong the absolute international control of China's customs remains

unaltered. The control is clumsy because even the tariff schedules can be altered only by unanimous consent of the treaty powers.

The control of the customs duties is one of the usual functions of a sovereign state, and in practically every country it is recognized as the natural method, not only of regulating its foreign commerce but of obtaining revenue for the central government. In the United States, the tariff is regarded as of such vital importance to the country that it has been the main campaign issue between the two great political parties.

To Americans Chinese might ask: 'If your tariff law was settled by the League of Nations at a uniform amount of five per cent on both imports and exports; if the customs were collected under foreign supervision and the funds paid into a British bank, instead of into the treasury; if alterations in the schedules could be made only by unanimous consent of the League members; if the surplus, after a host of foreign obligations were paid off, was turned over only after the diplomatic representatives in your country of the League members had agreed to it, would you not expect to see the Washington government financially embarrassed and weak in power? Every country, except China, represented in this conference has complete control of

its tariff and uses it both for protective and for revenue producing purposes. Great Britain, before the Great War, may have been regarded as an exception, but the British Empire granted to her dominions that tariff autonomy, which is today denied to China, and has been for more than half a century. This tariff autonomy was rightfully regarded as essential to the industrial, fiscal and general economic welfare of the sister nations of the British Empire.

The political development in China, as far as the central government is concerned, is gradually, despite serious handicaps tending toward a federation of the individual provinces. Provincial autonomy is the natural development of China and in this the actual powers of the central government will in some sense decrease in comparison with the powers which Peking was nominally supposed to possess under the Manchus and even under the government of Yuan Shih-kai, who for a time at least was supposed to exercise a strong centralized power. In actual fact, China even under the former Emperors had provincial or local autonomy. Peking appointed the viceroys and even the rulers of the individual provinces. But as long as these nominally absolute rulers sent their contributions to the capital they were allowed to carry out the administration as they saw fit; and no matter what powers

they were supposed to possess in theory the only wise and successful way to "see fit" was to follow public opinion as it existed among the various classes that had influence in the provinces or other subdivisions of the Empire. Only the weak rulers were removed, in an apparently arbitrary manner, by the government in Peking, but in at least nine cases out of ten, it was their failure to retain the respect and obedience of the localities they governed that caused their downfall. This provincial autonomy is so strong in China that it cannot be altered, and from the standpoint of wise statesmanship it should be encouraged. On the other hand a central government, strong enough properly to represent the country in its relations with other members of the family of nations, strong enough to enforce agreements made with foreign countries, is even more essential to foreign interests than to the Chinese themselves. In the development of such a central government, the power of control over the national customs is absolutely essential.

The history of the United States shows that the growth and power of the Federal Government from the days when the old articles of Confederation were discarded was made possible largely through the Federal control of the tariff that enabled the newly formed government to exert sufficient econo-

mic pressure to compel reluctant Rhode Island to enter the Union. After the American Civil War it was the immense tariff revenue flowing into the coffers of the Federal Treasury that enabled American finance to recover its sound position after a four year's conflict between the States in which the Southern States were for a time economically ruined. Previous to the recent Great War about one-third of the Federal revenue of the United States was received from duties on imports. In 1914 China received from the same source less than seven per cent. Another interesting point might be mentioned in this connection. In America, at the time the Constitution was adopted, a tax on exports was regarded as such an economic heresy that it was actually forbidden by the Constitution. Yet this same United States is a party to treaties which have forced upon China for more than half a century a duty of five per cent ad valorem on practically all exports.

The gradual union of Germany into a federal state was made possible largely through the formation in 1833 of the German Zollverein or Customs Union. France, Italy, Japan, Belgium, Holland, in fact every nation represented in this Conference, as well as Russia and many nations that are not, have all at one time or another found the regulation of their

tariff an important feature of the fiscal and general economic policy of the central government. Reciprocity has likewise greatly aided them in regulating their trade relations with other countries. China alone, of all the nations in the world, has been deprived of this economic function of government for more than fifty years.

China's tariff is a flat one of five per cent, on luxuries and necessities alike, either going in or coming out. Under the generally accepted interpretation of the most-favored-Nation clause in dealing with China, every foreign nation with whom she has treaty relations enjoys the benefit of this five per cent tariff without any concessions in favor of China. In fact as far as China is concerned the proper designation would be the "least-favored nation clause." If there are products of which China wishes to favor the export, she is powerless to remove the five per cent export tariff. If there are luxuries, or other articles, the import of which China wishes to tax high for revenue purposes or discourage for economic or sanitary reasons, or for consideration of public morality, she is quite powerless to increase the import duty. Tobacco, for instance, pays an import duty of five per cent in China and 355 per cent in Japan. Yet China raises and exports tobacco, and this is recognized in all countries as an

article which can be taxed without undue hardship on the people. The import duty on spirits in England before the War was about \$3.75 a gallon, while in China it was nine cents. In Japan in 1914 it was \$2.50 a gallon. Looked at from the standpoint of elemental principles of public finance, the Chinese tariff, which according to the 1918 agreement contains nearly 600 enumerated articles, all taxed at what is presumed to be five per cent of their actual value, presents the crudest form on taxation now extant. This uniform conventional tariff is unscientific, unfair to China's four hundred million people, and a severe indictment of the unjust treaty restrictions with which foreign nations retard the development of a country in whose material prosperity and its resultant increased purchasing power they would all share.

Even the five per cent ad valorem rate is crudely arrived at and misleading. As we have mentioned, the present tariff has its beginning in the Treaty of Nanking, signed with the British in 1842. The duties to be charged on imports were specific, based on five per cent of the valuation then roughly estimated. As China's interest in foreign trade was at that time almost nil, except for her desire to prevent the importation of opium, and as there were far more important stipulations in the treaty, including the

cession of Hongkong, the Chinese paid little attention to the tariff clauses, never dreaming that they meant the restricting of her fiscal powers for more than half a century. Other nations which made treaties with China adopted as a matter of course the tariff arrangements made by the British.

In 1858 China made, under duress, treaties with Great Britain, France and several other nations, and in these the five per cent ad valorem rate was universally applied and specific rates on 138 enumerated articles were adopted on this principle. Stipulations were contained in the treaties providing for periodical revisions every ten years but for various reasons these were constantly avoided. Only twice, once in 1902 and again in 1918, were these revisions of specific duties made; but the general principle of a five per cent ad valorem import and export tax was retained. In 1902 there were 332 articles enumerated in specific duties, and in 1918, 598, thus virtually putting the major part of the tariff, at least for imports, on a specific basis, although the five per cent principle governed the rate. Of course the general price level in China as in the rest of the world, has been rising for years, and any system of valuation which has been revised only twice in fifty years is quite unjust and puts the actual tariff in many cases far below the supposed five per cent rate.

Even in the revision of valuation made in 1918, prices current in 1912 to 1916 were taken as the basis which is of itself a loss to China from the point of view of the tariff revenue she would be entitled to even under the theory of the treaties.

The crass injustice to China of the conventional tariff is so self-evident that it need only a brief statement of the facts to prove the case; and there are other grounds on which the tariff regulations are equally objectionable. The statutory tariff regulations of every other nation in the world are rightly regarded as laws or regulations that must be constantly revised in order to keep them in Agreement with the changing trade and fiscal relations of the country concerned and even to use them for the encouragement of commerce along the lines thought advisable from the viewpoint of national interest. How important this is regarded, and how difficult it is to reach a conclusion satisfying even one national group, is well appreciated here in America where the tariff is just now a live public question. Under the present arrangement with China, any alteration has to be brought about by a unanimous agreement among a group of nations every one of which is, in some respects, a commercial rival of the other in China trade. Not since the days when the liberum veto of Poland, or the system of government by

the unanimous consent of the higher nobles caused the destruction of that former kingdom through its partition by three powerful neighbors, has there been such an example of cumbersome control of an important public function as that which now governs China's customs and to which agreement every one of the powers here assembled is a party.

This and other points under discussion can be well illustrated by a brief description of the efforts of China to seek relief from a situation which hampers her control of trade relations and restricts her activities in the field of public finance. Japan in the treaty of 1896 promised China that the tariff should be revised every ten years. Great Britain and the United States made the same promise in 1902. Ten years later, in 1912 and after China had become a republic, the Foreign Office sent a circular note to the representatives of the signatory powers in Peking requesting a revision of the tariff in accordance with these promises. But nothing came of the proposal. The following year after the republic was formally recognized the proposal was again made to the powers. The United States, Great Britain and the Netherlands agreed to China's request; Italy, Russia and Japan made counter proposals; and the rest of the powers consented to follow the majority, China could not ac-

cept the counter proposals made by the three dissenting powers and the matter had to be dropped. In the meantime, however, a six power consortium, including Britain, France, Germany, Russia, Japan and the United States, (the American banking group later withdrew at the suggestion of the government at Washington) readily agreed to let China have a reorganization loan of £25,000,000, bearing five per cent interest, but of which China would receive only 84 per cent net, the other sixteen per cent representing banking commissions and discount on the sale of bonds which were offered at 90. To guarantee this loan China pledged her salt revenues, and the entire salt administration was reorganized under foreign supervision and with a host of foreign office holders in the Salt Gabelle. Thus instead of carrying out a promise made by Japan, the United States and Great Britain to permit a revision of the tariff, and thereby increase the public revenue of the new republic, which had received world recognition, the foreign powers could agree only on financing China by a new loan at usurious rates and by further placing under foreign international control another of her natural sources of public revenue. In other words, although the nations could not agree in giving to the new

Chinese republic that which she was entitled to and which three of the nations had definitely promised her, six of the most important powers, including two of the three who had made objections to an unconditional revision of the tariff rates, were quite willing to grant the new government a large loan in return for further international control of China's internal affairs and incidentally a further opportunity for the foreign Ministers at Peking to secure additional positions for their own nationals with the Chinese government. While these fruitless attempts to obtain a revision of the tariff rates were in progress, prices of commodities rose throughout the world to such an extent that the nominal five per cent rate became practically a myth. The Customs authorities estimated that by 1916 the Chinese tariff on imports was practically three per cent ad valorem.

When China in August, 1917 declared war against the Central Powers, the allies consented to a revision of the maritime customs. The neutral powers subsequently joined the agreement, whereupon the Diplomatic Body in Peking and the Chinese Foreign Office agreed to a tariff conference in Shanghai, where the Tariff Commission held its first meeting on January 5, 1918. There were delegates from Brazil, Belgium, China, Denmark, France, Great Britain, Italy, Japan, Netherlands, Nor-

way, Portugal, Russia, Spain, and the United States. In the discussions at Peking preliminary to the assembling of the conference, the Russian Minister took an active part although he represented no actual government to which his recommendations could be referred. The Commission shortly after its first meeting appointed a committee of seven delegates, Belgium, China, France, Great Britain, Japan, Russia and the United States to consider China's proposal for a provisional tariff. After the Commission remained idle for nearly three months, it was at last informed by its committee that a basis of valuation was agreed upon. The new tariff was prepared on the basis of five per cent of the average value of merchandise during the years 1912-1916. After the new schedules were agreed upon the representatives of all the interested powers in an identical note to the Chinese government expressed the approval of their respective governments to the new tariff, which went into effect August 1.

The Chinese Government does not intend to adopt a system of protective tariff nor to over-tax trade, but simply demands the revision of the present tariff because it is unfair, unscientific, out-of-date and does not meet China's economic needs. The prolonged unfavorable balance of trade and the constant increase of national debt have created a serious financial and

economic stress which can only be relieved by consolidating the system of taxation and encouraging the export trade which will in turn benefit the importers by increasing the people's purchasing power. This reform has long been overdue, and in placing China's case before the Conference the Chinese Government have behind them the voice of the whole country. It is hoped that the friendly powers will restore to China the same fiscal right as is enjoyed by all independent nations so that the Chinese people may develop their natural resources, become better consumers of the world's commodities, and contribute their share to the progress and civilization of mankind.

Previous to the calling of the Washington Conference on June 15, the Chinese Foreign Office sent an identic note to the Legations in Peking regarding the revision of the 1918 Import Tariff. This was discussed by the Diplomatic Body on July 5, at which the view was expressed that the uncertainty of prices of goods which still prevails would scarcely assure the wisdom of carrying out the revision at this time. This was the opinion expressed by the British Minister and seemed to be shared by other members of the Diplomatic Body. In view of this opinion, the Japanese Minister, on instructions from his government, suggested to the Diplomatic Body that "as a practical and equitable me-

asure, the proposed revision should be postponed for some time, say two years, during which time the Chinese Government would be compensated by temporary imposition of reasonable surtax, say 25 per cent of the existing tariff after January 11, 1922." This proposal of the Japanese Minister was submitted to the various Legations by the Doyen of the Corps and is being more or less publicly discussed by the foreign trade bodies in China. The manner in which this most recent request of the Chinese has been received is characteristic. The foreign Ministers virtually admit that something "practical and equitable" should be done. In fact in this instance, as on other recent occasions, the Japanese have virtually led the way. But there is also the characteristic procrastination seen in the suggested postponement for two years, as well as the usual and natural lack of unanimity among the powers, and the necessity of the diplomatic representatives referring the question to their governments, which in turn consult directly their nationals having interests in China. There is of course some explanation, if no excuse, for all this as the regulation of tariff matters, especially of a vast country which is rapidly attracting more and more the trade of the entire world, is not a natural function of a Diplomatic Body. Even if the

request of the Chinese Government, made last June, before the opportunities offered by this Conference existed, were accepted in full, the new revision of valuation would be only a palliative rather than a cure. The vicious principle of a conventional tariff with a universal five per cent rate would still remain.

The present Conference, however, offers to both Chinese and foreigners an ideal opportunity to discuss and settle once for all, and in a thorough manner, this question, in which all are interested and which grows more acute year by year. We make an appeal for tariff autonomy; for the restitution of our tariff rights taken from us more than half a century ago at the gun's muzzle, and under totally different conditions. We make the appeal not alone on grounds of justice or international equity, but on the more material ground of enlightened mutual self interest. We do not ask for the return unconditionally, but conditioned on every reasonable and practicable stipulation necessary to safe-guard the financial obligations which are due you by treaty provisions. We are willing to guarantee even the minor, yet practical, consideration of the rights and even privileges of the foreigners now employed in the maritime customs, whose services were well rendered and have earned the gratitude of the Chinese them-

selves.

We shall abolish the vexatious internal likin tax, which is as detrimental to the foreigner as to the Chinese. In fact in yielding on this point we believe that we shall be the ones to gain the most; just as we are confident that after tariff autonomy is firmly established in China, the foreigner will gain by it quite as much as the Chinese. We can undertake the abolition of likin because not only the people of China are against it but also the Governors, both military (Tuchun) and civil, of the provinces have recently signified their readiness to carry out this program so soon as this question is satisfactorily settled by the Conference.

Our interest is not to stifle trade but to encourage it. Your interest in our increased purchasing power may be purely selfish but it is a manifestation of selfishness from which Chinese have nothing to fear and much to gain. The fiscal rights you will thus restore to us will give every encouragement to the formation of a strong national government in China. Search the pages of all modern history and you will fail to find a single instance of any national government worthy of the name existing without the means of obtaining sufficient revenue through the usual methods of public taxation, assessed and levied along broad, economic lines.

The government of China is

poor and weak. It should and shall be strong. Although poor, China does not come to you a beggar pleading poverty as an excuse to repudiate debts, however onerous, or even unjust in their origin. Repudiation of debts is something foreign to the Chinese character. We ask in the name of justice and of fair business dealing for the right to make full use of the usual, practical, most efficient and only safe way for the Chinese government to repay these obligations. Return to us our tariff autonomy and we bind the Chinese Government, we pledge the Chinese nation, to repay in full and on each date due every foreign obligation for which our customs revenue now stands hypothecated.



## CHAPTER II

# COMMITTEE DISCUSSIONS

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China's tariff was first brought up for formal discussion at the Fourth meeting of the Committee on Pacific and Far Eastern Questions, when Senator Underwood, one of the American Delegation, made the suggestion for the appointment of a sub-committee to study the question of Chinese revenue. I reproduce below the official minutes of the meeting, as well as the press statement that was given out on the adjournment of the meeting.

Senator Underwood said that, with the approval of his American and Chinese colleagues, he desired to make a suggestion. The committee had already agreed, he said, to the principle of the sovereignty of the Chinese Government and the integrity of Chinese territory, but it was well known that a government could not be strong enough to meet its outside obligations unless it had an adequate revenue. China had grave difficulty, at the present time, in raising sufficient revenue; the main source of revenue was the customs dues, which were

entirely inadequate; some understanding might be reached relative to this question and the source and amount of customs revenues in the future; an investigation to ascertain the facts in the case would be necessary, until the facts were available there was no foundation on which to base a discussion. He suggested therefore that the matter be referred in some way to a committee for adequate investigation and a report of facts and conclusions.

Mr. Balfour said that probably all those present would agree to adopt Mr. Underwood's proposal to send the question of the Chinese customs tariff to a technical committee. He hoped, however, that the scope of the committee's reference would not be too narrowly conceived. Twenty years ago the British Government had agreed that the Chinese customs tariff should be raised from 5 per cent to 12 1/2 per cent, provided that the Chinese Government would remove the "likin"; that was to say, the barrier to internal trade. He hoped that this sub-

ject would not be excluded from the committee's pur-view. Another question which he hoped would not be excluded was that the proceeds of the increase (in customs revenues) should be used for an improvement in the general administration of China. The difficulties under which China was laboring, to which the chairman had more than once referred, did undoubtedly create some difficulties. He hoped therefore, that inevitable questions collateral to the question of the customs tariff would not be excluded from the committee's reference. So anxious was he himself to get information that he hoped the committee would not be circumscribed by technical restrictions on the scope of its activities.

The chairman remarked that what Mr. Balfour had just said was pertinent and in harmony with what had gone before; nothing which the committee could discuss was of more importance than the question of adequate revenue; it would not do to set up two committees, one dealing with the question of revenue and the other the question of customs; there could be a single committee to deal with the whole question of revenue, (Mr. Underwood assented to this amplification of his suggestion.) The chairman continued that this question would, of course, require very close examination by the most expert men; the delegates might make suggestions as to

who they desired to have appointed.

Senator Schanzer said that the Italian delegation was quite prepared to accept the proposal to have a technical investigation as suggested by Senator Underwood and as amplified by the chairman. He believed it preferable, however, to have the committee consist only of experts, not of experts and delegates, so that the responsibility might be kept well separated; he suggested that each delegation appoint two experts to the committee.

Mr. Sarraut said that he fully recognized the importance of the suggestion made by Senator Underwood and he was quite ready to accept the principle of a meeting of a committee of experts for the examination of the financial question; but it seemed to him that the debate could not be so narrowed, and that a discussion must be undertaken on much broader lines. The committee, he said, must know what the Chinese delegation meant by the wording of paragraph 5. The conference was confronted by a de facto situation. For 50 or 60 years China had made to the powers a series of concessions, some of a territorial nature, others of an administrative nature. What were the rights whose restitution she demanded? The committee must know where it was going. Mr. Sarraut took as an example the question of extraterritoriality. One of the

grounds on which the powers might deem difficult the renunciation of this was that they found in it a guaranty for the protection of life and property of their nationals. Was China in a position to furnish equivalent guaranties? No doubt the financial question was of very great importance and it was perhaps the key to the other problems because its solution was necessary for the consolidation of the Chinese Government; but before it was taken up the precise meaning of paragraph 5 must be determined.

The chairman remarked that what Mr. Sarraut had said was closely in line with his own ideas; he had not thought of having a vote at that time in regard to the fifth Chinese proposal; the committee could not deal with it without knowing what it was about and China must furnish information as to what she wanted. But, as the committee was discussing the question of limitations, knowing that there were restrictions having to do with revenue, Senator Underwood had suggested that a start be made by taking them up. The chairman did not believe that this proposal was in conflict with what Mr. Sarraut had said. The question at the moment was: Should there be a sub-committee appointed to deal with the question of revenue to consist of not more than two experts appointed by each delegation? Each delegation would, of course, want

to be most expertly advised.

Mr. Koo believed that the question of revenue was one of the most important questions and that Senator Underwood's suggestion had been made with a view as much to its import as to the expediting of progress in the committee. At the same time he thought that the method of approach suggested by Mr. Sarraut was logical and probably susceptible of more rapid progress in the long run. The present situation in China had not arisen in one day; it dated back in its origin 80 years. It was due to treaties made in circumstances when China was precluded from expressing her will freely. A situation had now arisen which was not only full of danger for China's future, but a cause of anxiety for the peace of the Far East. China knew that the cumulative results of 80 years could not be wiped off at this conference, but the Chinese delegation felt that a serious effort should be made with a view to stabilizing the relations between China and the powers here in the conference as well as all other treaty powers. Mr. Sarraut's suggestion coincided with that of the Chinese delegation. The Chinese delegation had in fact prepared a list of specific questions which it thought should be discussed at the conference not necessarily for the purpose of finding an immediate solution for every one of them, but with the idea of sur-

veying the ground and knowing where China and the other powers represented at the conference stood.

There were two points, however, which the Chinese delegation could not over emphasize:

(1) A stop must be put to further encroachments on the administrative and territorial integrity of China, and a line must be drawn to safeguard the future; and (2) an earnest effort should be made to remove as many as possible of the existing limitations and infringements upon China's exercise of her sovereign rights. The resolutions adopted yesterday were apparently intended to safeguard the future of China, but present conditions should be examined with a view to their amelioration, because such a step would be as much in the general interest as in that of China. It would advance the cause of peace in the Far East.

It was with this spirit that the Chinese delegation asked the privilege to present to the committee a list of concrete questions which might be put generally in two classes: (1) Those limitations having a contractual and treaty basis, such as customs and extraterritoriality and (2) others not having such a basis, as for example, the maintenance in China of foreign post offices, the presence of foreign troops in certain parts of Chinese territory which had not been consented to free-

ly by China, and the establishment of foreign wireless stations in China. These questions would be presented at the committee's next meeting. At the present meeting the Chinese delegation was ready to discuss tariff autonomy, if the committee desired. The appointment of a sub-committee would probably be a useful step to take.

Mr. Koo wished to point out that the Chinese tariff question had two aspects, namely, the political and the technical aspects. The technical aspect should certainly be examined by a sub-committee of experts, but a general discussion by the committee of the whole on the political aspect of the question would be exceedingly useful. If it was desired by the committee, he would gladly make a statement of the tariff question in respect of its general aspects.

The chairman remarked that if the Chinese delegation was prepared to make a statement on this or any other question, there was no objection.

Sir Robert Borden said that, as he understood the proposal made by Senator Underwood, its purpose was to forward the second resolution adopted on the previous day. It had been well pointed out that a stable government required a stable and adequate revenue. Consequently it appeared desirable that the question should be referred to a sub-committee in order that the committee might have a report as to what was

practicable, and might enter a discussion with full knowledge and arrive at an agreement. This appeared very desirable from China's point of view, and this proposal did not appear inconsistent with the desire of the Chinese delegation to make a statement of its point of view on certain questions. It was important that this statement should be made and considered, but that, in the meantime, the proposed committee should be appointed.

Senator Lodge agreed with Sir Robert Borden in regard to taking one subject and going ahead with it, without in any way interfering with any general statement from the Chinese delegation. He wanted to say, however, that the delegates were the men responsible for the work of the conference and would have to act on the questions at issue sooner or later. It therefore seemed to him most practical that the sub-committee should be composed of members of the conference, one representing each power; this sub-committee could send for and experts they might desire to hear. It seemed that time would be saved in this way.

The chairman said that whatever might be done in regard to the appointment of a sub-committee would not stand in the way of any suggestions or views upon general questions, such as tariff or revenue, which China might desire to

make. The chairman then inquired whether it was agreeable to the committee to have the sub-committee composed of a representative of each delegation, with power to call to its aid such experts, individually or collectively, as might be desired.

Baron de Cartier desired to have the right to designate some one to sit for him on the sub-committee, in view of the fact that he was the only delegate of Belgium. There was general agreement that he should have this right.

Mr. Sze said that the proposal of the Chinese delegation would be delayed until the next meeting. The Chinese delegation, he said, was in accord with Senator Lodge's proposal, and also with what had been agreed upon at the other meetings of the committee. As to the question of China's revenue, he said that the powers had taken nearly a year in attempting to revise the Chinese tariff two years ago; hence the scope of the sub-committee should be limited to dealing with such revenue as could be increased, revenue that could be raised from sources affecting foreigners; the whole Chinese regime was too broad a subject.

The chairman suggested that the scope of the sub-committee should not be limited; in view of the fact that it would be composed of members of the committee, it could be allowed

to determine its own limits ; it would soon be able to see how far it could go, and would have in mind some sort of a possible project, not the presentation of a budget to China.

The chairman then asked whether there was an agreement that a sub-committee should be appointed, composed of one representative from each power, Belgium to have the right to substitution, and each power to be allowed to call in such experts as were desired.

Vice Admiral Baron Kato, speaking in Japanese, which was translated into English by Mr. Ichihashi, said that he agreed heartily, but that, as one of the Japanese delegates was ill, the Japanese delegation desired that it be permitted to send a substitute when necessary. This request received the assent of all present.

After some discussion the following statement for the press was decided upon :

"The Committee on Pacific and Far Eastern Questions met at the Pan American Building, November 22, at 11 a.m. All members were present except Baron Shidehara and Signor Meda. The committee discussed the matter of the limitations upon the administrative autonomy of China, with particular reference to those connected with revenue, and, on Senator Underwood's proposal, decided to appoint a sub-committee consisting of a representative of

each of the nine powers for the purpose of examining facts and stating their conclusions to the full committee. The sub-committee to have power to call in such expert opinion as it might desire."

At the fifth meeting of the Committee on Pacific and Far Eastern Questions, held November 3, China's tariff was again discussed. The official minutes of the meeting say :

The chairman then proceeded to the discussion of the question of the administration of the Chinese customs and announced that he had ventured to suggest to the Chinese Delegation that, in the interest of giving the discussion an order that might produce the best results, they refrain from presenting a full list of subjects and that they bring forward these questions one at a time, rather than involve any general discussion. If there was no objection, they would proceed with this understanding.

Mr. Koo, making a statement on behalf of the Chinese Delegation, said that he would engage the attention of the committee for a few minutes on a very important question, namely, the question of tariff autonomy. Prior to the year 1842, China had enjoyed the full right of fixing her customs duties. But in that year and in the subsequent years, she had made treaties with Great Britain, France, and the United States, in which for the

first time a limitation was imposed on this full right. The rule of 5 per cent ad valorem was thereby established, and later a schedule was fixed upon the basis of the current prices then prevailing. In the years preceding 1858, prices began to drop, and the 5 per cent customs duty collected appeared consequently to be in excess of the 5 per cent prescribed. A revision was therefore asked for by the treaty powers and was effected in 1858. From that time until 1902, however, "as prices mounted and the Chinese Government had been receiving less than the 5 per cent rate, no request was made on the part of the treaty powers for a revision. If the Chinese Government did not at that time press for a revision, it was only because the needs of the Government were then comparatively few and the revenues collected, small as they were, were not inadequate to meet the requirements.

It was only in 1902, as a result of the Boxer uprising, that another revision was made with a view to raising sufficient revenue to meet the newly imposed obligations arising out of the protocol of 1901. In that tariff, however, the rates were calculated on the basis of the average prices of 1897-1899, the then prevailing prices not being taken into account. But the revenue collected according to this increased tariff was hardly sufficient to meet the obliga-

tions of the indemnity. In 1912 another attempt was made to revise the tariff in order to bring it more in accord with actual prices. It proved to be a failure, as the unanimous consent of some 16 or 17 Powers was not obtained. It was only after six years of protracted negotiation that another revision was effected in 1918. The purpose of this revision was to increase the rate to an effective 5 per cent, but the resulting tariff, which was now in force, yielded only 3 1/2 per cent in comparison with the prices of commodities actually prevailing.

Dr. Koo asked on behalf of the Chinese delegation for the recovery by China of the right to tariff autonomy. He said that in the first place the existing regime in China constituted an infringement of the Chinese sovereign right to fix the tariff rate at her own discretion—a right enjoyed by the States throughout the world.

Again, it deprived China of her power to make reciprocity arrangements with the powers and ran counter to the principle of equality and mutuality. While foreign goods imported into China had to pay only 5 per cent of import tax, goods of Chinese origin imported to foreign countries had to pay customs duties of maximum rate. For instance, Chinese tea imported to the United Kingdom had to pay 1 shilling per pound, which meant 25 per

cent, as the price there was about 4 shillings per pound; Chinese tobacco on importation into Japan had to pay 350 per cent; raw silk into Japan, 30 per cent; and manufactured silk into the United States, 35 to 60 per cent. Such a regime constituted a serious impediment to the Chinese export trade and to China's economic development.

Moreover, a uniform rate for all kinds of commodities without latitude to differentiate rates between luxuries and necessities had obvious disadvantages. For example, it was evident that machinery and similar merchandise so much needed by China ought to pay a low rate, while on the other hand luxuries, such as cigars and cigarettes, should be more heavily taxed, as much for mitigating or preventing the injurious effects on the morale and social habits of the people from the use of these luxuries as for raising more revenue. The Chinese tariff was therefore not a scientific one, as it failed to take into consideration the economic and social as well as the fiscal needs of the Chinese people.

Continuing, Dr. Koo said that the present tariff caused a serious loss of revenue to the Chinese exchequer. Customs duties formed one of the most important sources of revenue of a country. Great Britain, for example, received 12 per cent out of her total revenue; France, 15 per

cent; United States, 35 per cent. (In giving these figures, he said he would be glad to hear his colleagues correct him, if they were not accurate to date.) The Chinese customs revenue, on the other hand, played, for nearly 100 years, a comparatively insignificant part in the national revenue. Besides, a large part of China's customs revenue was pledged to meet various foreign loans secured thereon, and this fact again reduced the amount available for the needs of the Government.

Furthermore, under the existing customs regime it was exceedingly difficult to revise the tariff, even for the modest purpose of raising it to an effective 5 per cent. The revision of 1902 was the first revision in 44 years, and the resulting tariff yielded only 2½ per cent in comparison with the market value of the imports, i.e., 2½ per cent less than what could have been collected if the tariff schedule had been revised to date. The revision of 1918, as was pointed out, was effected only after six years of negotiation, and being based on the average prices of 1912-1916, the new tariff of 1918 was yielding only 3 1/2 per cent. But even an effective 5 per cent import tariff, which would probably produce an additional revenue of nearly 15,000,000 taels, might, however, still prove inadequate to meet the manifold needs of the Chinese

Government, such as those for education, road building, sanitation, and public welfare.

In view of the foregoing reasons, Dr. Koo asked the powers to agree to the restoration to China of her tariff autonomy. In making this request, the Chinese Government entertained no desire to interfere with the present administration of the maritime customs, which was generally considered to be efficient and satisfactory, nor to interfere with the devction of the funds of the maritime customs to the liquidation of foreign loans secured thereon. What he had uppermost in mind in asking for the recognition of China's tariff autonomy was the right to fix and differentiate the tariff rates. As the establishment of such a new regime would require time, it should come into force only after a period to be agreed upon. Before that period, a maximum rate should be agreed to, and within that maximum rate China should enjoy full freedom of differentiating rates, for example between luxuries and necessities. But negotiation for the purpose of fixing a maximum rate might take months, and as the present Chinese financial condition needed some immediate relief, it was proposed that on and from January 1, 1922, the Chinese import tariff should be raised to 12 1/2 per cent, a rate mentioned in the Chinese treaties with Great Britain, the United States, and Japan.

Senator Pearce asked Mr. Koo if, having given the ratio between customs revenues and total revenues found to exist in three other countries, he would not give the percentage that the customs revenues of China bore to the total revenues of the central Government.

Mr. Koo answered that, so far as he could recall, import duties would total approximately 10 per cent of the national revenue, but this figure was subject to verification.

Senator Lodge stated that, unless he had misunderstood, Mr. Koo's statement was to the effect that the customs revenues of the United States amounted to 35 per cent of its total revenues. He stated that actually they only amounted to about 8 per cent, inasmuch as the total revenues for the current year totalled about \$4,500,000,000, of which \$350,000,000 was derived from customs revenues. The tariff this year was expected to raise a large revenue, but certainly not over 15 per cent.

Mr. Koo inquired if the figures he had given (35 per cent) were not approximately correct for the period preceding the war.

Senator Lodge agreed that they were approximately correct.

Mr. Root stated that the treaty of 1903 between the United States and China contained a

provision concerning the abolition of likin and proceeded to read Article IV of the treaty, as follows:

"The Chinese Government, recognizing that the existing system of levying dues on goods in transit, and especially the system of taxation known as likin, impedes the free circulation of commodities to the general injury of trade, hereby undertakes to abandon the levy of likin and all other transit dues throughout the empire and to abolish the offices, stations, and barriers maintained for their collection and not to establish other offices for levying dues on goods in transit. It is clearly understood that after the offices, stations, and barriers for taxing goods in transit have been abolished no attempt shall be made to reestablish them in any form or under any pretext whatsoever."

Continuing, Mr. Root stated that the treaties of 1902 and 1903 between China and Great Britain and Japan, respectively, contained provisions of similar effect, and that the increase in customs duties to 12 1/2 per cent, as proposed in those treaties, was clearly intended as a consideration for the abolition of likin, and inquired of Mr. Koo what proposal, if any, he was ready to make with regard to "likin."

Mr. Koo answered in the following sense:

That likin was a handicap to the internal, as well as the

external, trade of China, and that the substantial classes in China were for its abolition. He added that the Government would be prepared to abolish likin if tariff autonomy were granted, and if it were possible to agree on an increase in customs duties, which would compensate for its abolition. He considered the original proposition of an increase to 12½ per cent as hardly sufficient to-day, in view of the great increase in public expenses.

The chairman gave it as his understanding that under the present system there was a transit tax of 2½ per cent, which amounted to a commutation on all likin, and inquired if this generally applied.

Mr. Koo replied that foreign merchandise imported into treaty ports paid only 5 per cent and imported into all other parts of China paid an additional 2½ per cent, and that advantage of this arrangement was very generally taken.

The chairman pointed out to the delegates that this meant that goods going to the treaty ports were taxed only 5 per cent, whereas goods going to any other part of China paid altogether about 7½ per cent. Inasmuch, however, as this was a very technical point, he suggested that unless there was to be more discussion it should be referred to the special sub-committee.

Baron de Cartier suggested

that the question was perhaps susceptible of possible favorable action by the full committee and that discussion might possibly lead to instructions to the special sub-committee, adding that, if this were done, it would be a distinct forward step.

Senator Underwood called attention to the fact that stable conditions in China would be for the benefit of all those nations who did business with China and that such conditions were desirable. Pointing out that it was recognized as axiomatic that no government can function effectively without revenue, he said that the committee, in working to secure ample revenue for China was laying the cornerstone for stabilization in that country. He remarked that he did not consider the transportation tax as a tax on imports and added that the United States had had a similar tax. Continuing, Senator Underwood pointed out the necessity of refraining, as far as possible, from disturbing existing trade conditions; as readjustment and revision should be made with a view to avoiding any disturbance of established channels of trade. It seemed advisable, in view of the efficiency of the present system of administration, that it should not be disturbed. In his opinion no arbitrary rates, such as 12 1/2 per cent, should be decided upon, but rather

such changes should be made as to assure a revenue sufficient to keep China out of debt. It was important that every cent collected should go to meet the expenses of government. He added that Mr. Koo's suggestion that China should have the right to charge more duty on luxuries than on necessities was a reasonable one, but argued that a simple and not a complicated tariff was desired. Finally, the needs of the Government should be clearly known and the customs levies changed to meet them.

The chairman called for further remarks, but, as none were forthcoming, he announced that, by agreement, the question of customs duties would be referred to the sub-committee to which the following had been appointed: United States, Senator Underwood, chairman; Belgium, Baron de Cartier, M. Cattier as alternate; British Empire, Sir Robert Borden, Sir John Jordan as alternate; China, Dr. Koo; France, M. Sarraut; Italy, Senator Albertini, Signor Vicerzo Fileti as alternate; Japan, Mr. Hanihara, Netherlands, Jonkheer Beelaerts van Blokland; Portugal, Capt. Vasconcellos. The chairman then requested the Chinese delegation to advise the committee what questions it proposed to take up at the next meeting, so that the members might come prepared to discuss them.

## CHAPTER III

# REPORT OF SUB-COMMITTEE

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It was not until the seventeenth meeting of the Committee on Pacific and Far Eastern Questions, held on January 5, that the Sub-committee on the Chinese Customs tariff was ready with its report. The minutes of the meeting follow.

Senator Underwood said that he desired to present the report of the sub-committee on the Chinese customs tariff, but in advance of reading the report he wished to make a short statement to the committee in explanation of what the sub-committee had done.

He desired to express his appreciation of the attitude of the delegates on the sub-committee with respect to the broad principles involved in a matter so serious as that which touched the financial resources of the Chinese Government. He felt that they had approached the subject in an admirable spirit of collaboration with a view to achievements of a constructive order which would not only meet the present exigencies and assist in stabilizing

economic conditions in China, but would go much further by removing elements of friction, in the general trade adjustment.

The importance of this agreement in reference to trade conditions in China, which to a large extent were controlled by the duties levied at the customs-house, went, Senator Underwood thought, much further than the mere question of the money involved. As he had stated some time ago, he thought one of the principal causes of irritation and difference between the nations of the world arose from their trade conditions, and when one nation felt that it was not standing on an equality with another nation it was likely to bring about conditions of unrest that might lead in the end to war; and the great purpose of this convention was to eliminate the causes of war. Therefore Senator Underwood thought that the members of the committee could congratulate themselves at this time that they had reached, in the report that he would pre-

sent, an understanding to wipe out the discriminations on the border of China in reference to customs duties and that would make all the countries of the world feel that they would hereafter have an open door that meant equal opportunity of trade.

The Chinese tariff, being a treaty tariff and depending upon the unanimous consent of the treaty powers, would have presented difficulties of agreement respecting revision or improvement in the system which would have been almost insurmountable had it not been for the generous and open-minded attitude of the powers with respect to the broader purposes of their deliberations.

The last revision of the tariff took place in 1918. The revision was for the purpose of bringing the rates up to a basis of 5 per cent effective. The basis of revision was, however, the average of the values of imports as they appeared upon invoices during the years 1912-1916. The rates fixed by this revision and which became effective in August, 1919, were to last for at least two years after the end of the war, at which time another revision might be made. Manifestly, valuations based on an average of values from 1912 to 1916 no longer represented the true value of importations, and as a result the revision of 1918, instead of producing revenue representing 5 per cent effective,

actually produced only about 3 1/2 per cent effective.

The agreement in its present form, Senator Underwood said, contained provisions relating to two distinct phases of tariff readjustment, namely, those which might become immediately applicable without taking treaty form requiring ratification and those which must be embraced in a treaty and which would require ratification. The first of these related to the immediate revision of the present tariff to a basis of 5 per cent effective and the second related to subjects to be dealt with in a special conference which would be charged with taking measures looking to the speedy abolition of likin and the application of surtaxes, together with the realization of the principle of uniformity in the rates of customs duties on all frontiers whether land or maritime.

The stages, therefore, of applying the terms of the agreement were as follows:

1. A committee of revision would meet forthwith at Shanghai to revise the present tariff to a basis of 5 per cent effective. This revision would become effective two months after publication without awaiting ratification. It would provide an additional revenue amounting to about \$17,000,000 silver.

Senator Underwood here said that he wished it to be understood, that the figures he gave here were substantially accurate. He was sure that all members

of the committee realized the impossibility of getting absolutely accurate figures, but they were substantially correct.

2. Immediate steps would be taken for a special conference representing China and the powers charged with the duty of preparing the way for the speedy abolition of the likin and the bringing into effect of the surtaxes provided for in the treaties between China and Great Britain of 1902 and China and the United States and Japan of 1903. The special conference would likewise put into effect a surtax of  $2\frac{1}{2}$  per cent ad valorem, which would secure additional revenue amounting to approximately \$27,000,000 silver, and a special surtax on luxuries, not exceeding 5 per cent ad valorem, which would provide a still further revenue amounting to \$2,167,000 silver. The additional revenue from customs duties provided in the present agreement would fall into four categories, as follows:

1. Increase to 5 per cent effective, \$17,000,000 silver.

2. Surtax of  $2\frac{1}{2}$  per cent, \$27,000,000 silver.

3. Surtax not exceeding 5 per cent on luxuries, \$2,167,000 silver:

4. Total additional revenue \$46,167,000 silver.

With the completion of the work of the special conference carrying into effect the abolition of likin and the application of the surtaxes provided in the

treaties with Great Britain, Japan and the United States, the additional revenue provided should amount to \$156,000,000 silver. The present tariff produced revenue at the rate of \$64,000,000 silver for 1920. If to this were added the additional revenue provided for in the agreement, the total yield from customs duties would amount to \$110,167,000 silver. Aside from these measures, there were important provisions in the agreement relating to future revisions of the tariff with a view to maintaining it on a correct basis of valuation so that it might produce revenue at the effective rates to which China was entitled. Following the immediate revision there would be a second revision in four years and subsequent revisions every seven years.

Heretofore there had been some difficulty encountered in securing revisions regularly. The special conference was charged with the duty of providing means whereby future delays in revision might be avoided. Carrying into effect the general agreement already adopted by this conference, there was a provision in the present agreement for effective equality of treatment and of opportunity. This provision carried with it an important recognition of the principle of uniformity in the rates of customs duties levied on all frontiers, which meant the abolition of discriminatory practices in rela-

tion to goods imported by land.

Senator Underwood said he felt that for the first time measures had been taken which effectually removed the highly unjust and controversial preferences with which the foreign trade of China had heretofore been encumbered. Those nations which had enjoyed the advantages of preferential treatment across their land frontiers had acted with commendable foresight and altruism in surrendering those minor advantages in trade to the broader principles of quality of treatment and the general betterment of the conditions of friendly trade competition. This appeared to him to represent a signal achievement, not only in the interest of China and of each of the treaty powers, but also in the interest of trade in general and of peace itself.

Before reading the report, he said that he wished to say that it was a report that came before the full committee with the unanimous approval of the members of the sub-committee.

He then read the following report:

"The sub-committee on Chinese customs duties, having had under consideration the proposals of the Chinese delegates for the restoration of tariff autonomy and the readjustment of maritime customs duties with a view to providing additional revenue to meet the needs of the Chinese Government, reports that it has reached the

following agreement:

"The powers attending this conference agree—

"I. That immediate steps be taken through a special conference representing China and the powers which accept this agreement to prepare the way for the speedy abolition of likin and the fulfillment of the other conditions laid down in Article VIII of the Anglo-Chinese commercial treaty of September 5, 1902, and the corresponding articles of the United States and Japanese treaties, with a view to levying the surtaxes as provided in those articles.

"II. That the present tariff on importation shall be forthwith revised and raised to a basis of 5 per cent effective.

"That this revision shall be carried out forthwith by a revision committee at Shanghai on the general lines of the last revision. The revision shall proceed as rapidly as possible with a view to its completion within four months from the conclusion of the present conference, and the revised tariff shall become effective two months after publication without awaiting ratification.

"III. That the interim provisions to be applied until the articles referred to in Paragraph I come into operation be considered by the aforesaid special conference which shall authorize the levying of a surtax on dutiable imports as from such date, for such purposes, and subject to such conditions as

they many determine. The surtax shall be at a uniform rate of 2 1/2 per cent ad valorem except in the case of certain articles of luxury which in the opinion of the conference can bear a greater increase without unduly impeding trade, and upon which the total surtax shall not exceed 5 per cent.

"IV. (1) That there shall be a further revision of the tariff to take effect at the expiration of four years following the completion of the immediate revision herein authorized, in order to insure that the rates shall correspond to the ad valorem rates fixed.

"(2) That following this revision there shall be periodical revisions of the tariff every seven years for the same purpose.

"(3) That in order to prevent delay such periodical revisions shall be effected in accordance with rules to be settled by the special conference provided in Paragraph I.

"V. That in all matters relating to customs duties there shall be effective equality of treatment and of opportunity for all nations parties to this agreement.

"VI. That the principle of uniformity in the rates of customs duties levied on all the frontiers, land and maritime, of China be recognized and that it be referred to the special conference mentioned in Paragraph I to make arrangements to give practical effect to this principle, with power to

authorize any adjustments which may appear equitable in cases in which the customs privilege to be abolished was granted in return for some local economic favor.

"In the meantime any increase in the rates of customs duties or surtax imposed in pursuance of the present agreement shall be levied at a uniform rate ad valorem on all frontiers, land and maritime.

"VII. That the charge for transit passes shall be at the rate of 2 1/2 per cent ad valorem except when the arrangements contemplated in Paragraph I are in force.

"VIII. That the treaty powers not here represented shall be invited to accept the present agreement.

"IX. That this agreement shall override all provisions of treaties between China and the powers which accept it which are inconsistent with its terms.

"The delegate for China submitted the following communication which it was unanimously agreed should form a part of the foregoing agreement as appendix thereto:

"The Chinese delegation has the honor to inform the Committee on the Far Eastern Questions of the Conference on the Limitation of Armaments that the Chinese Government have no intention to effect any change which may disturb the present administration of the Chinese Maritime Customs."

"The sub-committee recom-

mend that, as the foregoing agreement includes provisions relating to two different matters, namely, (1) the immediate revision of the present tariff in accordance with existing treaties, and (2) other matters involving the modification of existing treaties, this report after consideration by the full committee be referred to the drafting committee with a view to putting the agreement into final form and separating the provisions which can go into force forthwith from those which are dependent on ratification by the powers."

That, Senator Underwood continued, completed the main report, but in addition to the main report affecting Chinese customs tariffs the sub-committee realized that one of the matters of great importance that came before them was not merely an adjustment of the border revenue as to the powers dealing with China, but that a matter of supreme importance was to secure to the Chinese Government sufficient revenues to maintain properly a stable and safe government; and at the same time the sub-committee realized that maintenance in China of large military forces was a serious drain on the finances of China and materially affected the question of raising revenues, and at the same time was in contravention of the great principles of this conference looking to the disarmament of nations and secur-

ing the peace of the world; and therefore, with the consent of the Chinese delegation, the other members of the committee had agreed to the resolution which he would now read:

"The Chinese delegate not voting, the following resolution was adopted January 3, 1922, to be annexed to the report of the sub-committee on Chinese revenue and tariff:

"The members of the sub-committee in studying the question of increasing the customs tariff rates to meet the urgent needs of the Chinese Government have been deeply impressed with the severe drain on China's public revenue through the maintenance of excessive military forces in various parts of the country. Most of these forces are controlled by the military chiefs of the provinces, and their continued maintenance appears to be mainly responsible for China's present unsettled political conditions. It is felt that large and prompt reduction of these forces will not only advance the cause of China's political unity and economic development but hasten her financial rehabilitation. Therefore, without any intention to interfere in the internal problems of China, but animated by the sincere desire to see China develop and maintain for herself an effective and stable government, alike in her own interest and in the general interest of trade, and inspired

by the spirit of this conference whose aim is to reduce through the limitation of armament 'the enormous disbursements' which 'manifestly constitute the greater part of the encumbrance upon enterprise and national prosperity,' the sub-committee venture to suggest for the consideration of the committee the advisability of laying before the conference for its adoption a resolution expressing the earnest hope of the conference and embodying a friendly recommendation to China that immediate and effective steps be taken by the Chinese Government to reduce the aforesaid military forces and expenditure."

This, Senator Underwood concluded, completed the work of the sub-committee, and he asked the adoption of the report and, after its adoption, its reference to the committee on drafting, to be put in treaty form.

The chairman asked whether it was the pleasure of the committee that the report of the sub-committee be received and placed upon the files of the committee. No objection being voiced, he said that the report would be received, and that it was before the committee for its consideration and action.

The chairman felt that it was a matter of the deepest gratification that the sub-committee had been able to reach a unanimous conclusion upon this important subject and to present recommendations the adoption of

which apparently opened the way to the provisions of a more adequate revenue for China and thus aided in a very substantial manner in placing Chinese finances upon a better basis. He asked whether it was the pleasure of the committee to proceed with the discussion of the report. He also suggested that the committee first deal, if Senator Underwood had no objection, with the main recommendation before they took up the statements that were appended.

The recommendation, the chairman said, was in that part of the report which began as follows: "The powers attending this conference agree." There then followed nine articles which it was not necessary to read again.

The question before the committee was whether they would adopt a resolution in the terms of the report or that portion of it to which he had just referred. The chairman asked whether the committee was prepared to proceed to act upon the proposed resolution.

Mr. Koo said that he wished to rise chiefly to express his appreciation for what Senator Underwood had accomplished. Having sat on the sub-committee of which Senator Underwood had been the distinguished chairman, he wished to give expression to his admiration of the way in which the deliberations of that body had been guided. Thanks to Senator

Underwood's skill and ability, important results had been accomplished which were now embodied in the resolution before the committee. On behalf of the Chinese Government, he was glad to indorse the agreement just reached. In giving this assent he wished to take this opportunity of making a statement regarding the re-establishment of tariff autonomy—a matter to which the Chinese people attached extreme importance.

"On November 23 last, I had the honor, on behalf of the Chinese delegation, to lay the tariff question of China before the committee. Three propositions were submitted. The principal one of them was for the restoration to China of her tariff autonomy; the other two being intended merely as provisional measures to prepare the ground for the early consummation of the main object. At the same time I stated that it was not the intention of the Chinese Government to effect any change that might disturb the present administration of the Chinese Maritime Customs, though this statement obviously could not be reasonably construed to preclude China's legitimate aspirations gradually to make this important branch of the Chinese Government more national in character.

"I explained the reasons why China was desirous of recovering her freedom of action in respect to the matter of levying

customs duties. The committee, after some discussion, referred the whole question to a sub-committee, of which Senator Underwood has been the distinguished chairman. The results of the discussions in the sub-committee are embodied in an agreement which has just been laid before you. It is a valuable agreement, embodying, as it does, a number of important points, connected with the effective application of the present regime of treaty tariff. But it will be noted that the question of the restoration of tariff autonomy to China is not included, it being the opinion of some members of the sub-committee that it would not be practicable to fix at present a definite period within which the existing treaty provisions on tariff were to be brought to an end, and that the question should be decided in the light of conditions that might arise in the future.

"The Chinese delegation, however, can not but wish that a different view had prevailed. Tariff autonomy is a sovereign right enjoyed by all independent states. Its free exercise is essential to the well-being of the state. The existing treaty provisions, by which the levy of customs duties, transit dues, and other imports is regulated, constitute not only a restriction on China's freedom of action, but an infringement on her sovereignty. Restoration to her of tariff autonomy would only

be recognition of a right which is hers and which she relinquished against her will.

"The maintenance of the present tariff regime means, moreover, a continued loss of revenue to the Chinese Government. The customs import duty under this regime is limited to the very low rate of 5 per cent ad valorem for all classes of dutiable goods, compared with the average rate of 15 per cent to 60 per cent levied by other countries. In fact, because the duties are levied on the basis of previously fixed schedule, the actual collections amount to only  $3\frac{1}{2}$  per cent effective. The customs revenue, therefore, constitutes only about  $7\frac{1}{2}$  per cent of China's total revenue, while the average for the principal countries in the West ranges from 12 per cent to 15 per cent at present, and still higher before the war. When the proposed surtax of  $2\frac{1}{2}$  per cent for ordinary articles and of 5 per cent on certain luxuries eventually goes into effect, more revenue will be produced, but even then it will hardly be commensurate with the rapidly growing needs of the Chinese Government. Much of the elasticity of the fiscal systems of other States depends upon their freedom to regulate their customs duties. To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government,

it is necessary to restore tariff autonomy to her at an early date.

"The necessity to levy a uniform low duty has encouraged a disproportionate increase in the import of luxuries such as wine and tobacco; and apart from the loss of revenue consequent upon giving these things the same rate as is levied on the necessities of life, the effect of the social and moral habits of the Chinese people has been altogether deleterious. A beginning has been made in the agreement before the committee in authorizing a levy of an additional surtax of  $2\frac{1}{2}$  per cent on certain articles of luxury, but it is apparent that a greater increase is needed if a restraining influence is to be exercised in the use of these articles of luxury.

"Nor is it to be overlooked that the present treaty tariff regime is an impediment to China's economic development. Under this regime China enjoys no reciprocity from any of the powers with which she stands in treaty relations. Though every treaty power enjoys the advantage of having its wares imported into China at the exceptionally low rate of 5 per cent ad valorem, the Chinese produce and merchandise, on entering into any of these countries, is subjected to the maximum rates leviable, which are in some cases 60 or 70 times the rate which she herself levies

on foreign imports. The necessity of levying uniform duties on all articles imported into China, on the other hand, makes these duties on such articles as machinery and raw materials for Chinese industries a handicap to China's industrial development. At present there are more than 1,000 Chinese factories employing foreign machinery and methods and engaged in over 30 different kinds of important industries. To enable them to live and develop and thereby contribute to the growth of China's foreign trade in which all nations are deeply interested, some latitude is necessary in the regulation of the customs duties.

"Besides, regulation of China's tariff by treaty must inevitably, in the nature of things, work unjustly and to her great detriment. Thus, whenever China makes a proposal, be it for revision of the tariff to bring it more into harmony with the prevailing prices or for an increase of the customs duty to meet her increased needs, the unanimous consent of more than a dozen treaty powers is necessary. As each country naturally desires to protect and promote its own commercial interests in China, and as the industries of these treaty powers vary in character and export different kinds of merchandise, they all seek to avoid the burden of the new revision or increased rate falling upon the industries of their

own countries. With this end in view, different conditions are not infrequently attached by different powers to their consent to revise the customs tariff or increase the rate.

"Thus, though this matter of custom tariff is intimately connected with the well-being of the Chinese State, the interests of the treaty powers appear to be placed at times before the legitimate interests of China. Under such circumstances the difficulty of effecting any adjustment or arrangement favorable to China can easily be conceived, and it has at times been well nigh insurmountable. On one occasion or another there is always some power who considers its own interest in the matter of China customs tariff more important than the supreme interests of China. The experience of the Chinese delegation in the sub-committee on tariff, much as it has accomplished, has not altogether removed the ground for this opinion. But as unanimity is required, the dissent of one power is sufficient to defeat and upset a general arrangement agreed to by all the others, which by virtue of the most favored nation clause, a concession or privilege granted by China to one nation for a specific consideration, is at once claimed by all without regard to the *quid pro quo*.

"In view of the inherent difficulty and injustice of the present regime, and of the

wholesome and desirable effect which restoration of tariff autonomy is sure to have upon the trade and economic development of China, as well as upon the evolution of her fiscal system, the Chinese delegation feel in duty bound to declare that though this committee does not see its way to consider China's claim for the restoration of her tariff autonomy, it is not their desire, in assenting to the agreement now before you, to relinquish their claim; on the contrary, it is their intention to bring the question up again for consideration on all appropriate occasions in the future."

Mr. Koo concluded by saying that in making this statement he had wished to define the position of the Chinese delegation with regard to a matter which was very close to the hearts of the Chinese people, and that he had not intended to detract in any way from the value of the statement just made by the chairman of the sub-committee on Chinese revenue.

The Chairman asked whether the committee desired to proceed further with the discussion, or was ready to vote upon the resolution. He said that the question was on the resolution setting forth the agreement of the powers attending the conference in the terms stated in the recommendation of the sub-committee, consisting of nine articles.

A vote being taken and the

nine powers present giving their assent, the resolution was adopted.

The chairman said that in the report of the sub-committee appeared a communication which it was unanimously agreed by the sub-committee should form a part of the proposed agreement and should serve as an appendix to it. This was entitled "A Declaration of Intention not to Disturb the Present Administration of the Chinese Maritime Customs." The question was then upon the adoption of the report and the agreement that this declaration should form an appendix to the agreement of the powers present. He asked whether it was desired that this question should be discussed, or whether the committee was ready for action.

A vote being taken, and the nine powers present signifying their assent, the proposal was adopted.

The committee, the chairman continued, now came to the resolution embodied in the report presented by the sub-committee. It related to present conditions in China, and at the end of the resolution adopted by the sub-committee the following statement was found:

"The sub-committee venture to suggest for the consideration of the committee the advisability of laying before the conference for its adoption a resolution expressing the earnest hope of the conference and embodying a friendly recommendation to

China that immediate and effective steps be taken by the Chinese Government to reduce the aforesaid military forces and expenditure."

The chairman said that the adoption of this report would be the adoption of a recommendation that there should be prepared and submitted to the conference a resolution in the sense of this declaration or resolution adopted by the subcommittee. The question was, then, upon this resolution. The chairman asked if there were any remarks.

Senator Underwood said that he did not desire to discuss the pending resolution further than he had already, but he wished to make one statement before the committee adjourned that morning. He had listened with much interest to the statement read by Mr. Koo in reference to the desire of China for tariff autonomy, which was a very natural and proper desire. Any great government naturally wished the time might come when she might control her own finances, notwithstanding that she yielded the control herself. So far as he was concerned, he gladly welcomed an opportunity, when it could be done, of restoring to China her entire fiscal autonomy; but he thought it was fair to the subcommittee and to the members of this committee to say this—and it was in line with the resolution pending—that he was sure this subcommittee and the committee

to which he was now addressing himself would gladly do very much more for China along all lines if conditions in China were such that the outside powers felt they could do so with justice to China herself. He did not think there was any doubt in the minds of the men on the subcommittee as to the question that if China at present had the unlimited control of levying taxes at the customs house, in view of the unsettled conditions now existing in China, it would probably work, in the end, to China's detriment and to the injury of the world; and he thought that had more to do with the subcommittee not making a full and direct response to Mr. Koo's request than anything else. He was sure there was no desire on the part of the other powers to be selfish, or not to recognize the full sovereignty of China, and he only rose to say this, that if he was a judge of the situation, a judge of the temper of conditions in the balance of the world, he felt sure that when China herself established a parliamentary government of all the Provinces of China and dispensed with the military control that now existed in many of the Provinces of China, so that the outside powers might feel that they were dealing with a government that had entire and absolute and free control of the situation, China could expect to realize the great ideals of

sovereignty that she asked for at this table.

The chairman said he would like to make this suggestion to the committee: The resolution which was before them, which had been adopted by the sub-committee, as he had stated, brought before the committee the question of the advisability of having a resolution to report to the conference. His suggestion was that, as the matter had been thoroughly considered in the sub-committee, of which Senator Underwood was the chairman, this subject

be recommitted to the sub-committee with instructions to bring in a resolution in the sense of their recommendation in form suitable for adoption by the committee. He asked whether that suggestion was agreeable to the delegates. If it was, he would put it to vote. The United States of America, he said, assented.

Belgium and the British Empire then gave their assent.

The chairman said he believed China was not voting upon this.



## CHAPTER IV

# REPORT OF SUB-COMMITTEE ON DRAFTING

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It was at the eighteenth session of the Committee on Pacific and Far Eastern Questions, held January 16, that the report of the sub-committee on drafting was ready. The minutes of this meeting say:

The chairman (Mr. Hughes) said that, before proceeding with the further order of business, the committee would entertain the report of the sub-committee on drafting in regard to Chinese customs tariffs, if the report was ready.

Mr. Root said he had the honor to report for the sub-committee as follows: The report of the sub-committee on Chinese revenue which had been adopted by the committee and referred to the drafting committee contained (1) provisions for revision of the customs schedule under the present treaties, so as to make the rates equivalent to 5 per cent effective in accordance with the existing treaties, (2) provisions, relative to a

new treaty, which modified the existing treaties.

The sub-committee on Chinese revenue, in the report which had been adopted, recommended that these two classes of provisions be separated and put into two instruments, one in the nature of a declaration and the other in the nature of a formal treaty. The sub-committee on drafting had followed that direction, and reported, first, the resolution having in view the schedule under the existing treaties. Mr. Root then read as follows:

"With a view to providing additional revenue to meet the needs of the Chinese Government, the powers represented at this conference, namely, the United States of America, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands, and Portugal agree:

"That the customs schedule

of duties on imports into China adopted by the tariff revision commission at Shanghai on December 19, 1918, shall forthwith be revised so that the rates of duty shall be equivalent to 5 per cent effective as provided for in the several commercial treaties to which China is a party.

"A revision commission shall meet at Shanghai, at the earliest practicable date, to effect this revision forthwith and on the general lines of the last revision.

"This commission shall be composed of representatives of the powers above named and of representatives of any additional powers who have treaties with China providing for a tariff on imports and exports not to exceed 5 per cent ad valorem and who desire to participate therein.

"The revision shall proceed as rapidly as possible with a view to its completion within four months from the date of the adoption of this resolution by the Conference on the Limitation of Armament and Pacific and Far Eastern Questions.

"The revised tariff shall become effective as soon as possible, but not earlier than two months after its publication by the revision commission.

"The Government of the United States, as convener of the present conference, is requested forthwith to communicate the terms of this resolution to the Governments of powers not represented at this con-

ference but who participated in the revision of 1918, aforesaid."

Mr. Root said that, since the above agreement had been authorized by the sub-committee on drafting, the suggestion had been made that the terms of the clause which provided that the revision commission should be composed of representatives of the powers present, and of representatives of any additional powers who had treaties with China providing for a tariff on imports and exports not to exceed 5 per cent, would include Russia, but that it would be impossible to send notice to Russia or to collaborate with Russia in such a commission because Russia had no government which had been recognized by any of the powers here present. In conversation upon this subject with several members of the sub-committee on drafting the suggestion had been made that an amendment should be added to the resolution inserting after the words "additional powers" the words "having governments at present recognized by the powers represented at this conference"; and, if that met the views of the members of this committee, it would hardly be worth while to call the sub-committee on drafting together again, as all its members were present. Mr. Root therefore suggested that the committee amend the report by the inclusion of these words.

Mr. Root then asked the

chairman if it was his pleasure that this resolution should be taken by itself.

The chairman said he thought it had better be taken first, if there was no objection.

The only difference between the text of the resolution as proposed and the text of the resolution distributed was that in the fourth paragraph after the words "additional powers" the words "having governments at present recognized by the powers represented at this conference and" should be inserted, so that the paragraph would read:

"This commission shall be composed of representatives of the powers above named and of representatives of any additional powers having governments at present recognized by the powers represented at this conference and who have treaties with China providing for a tariff on imports and exports not to exceed 5 per cent ad valorem, and who desire to participate therein."

He then asked if the committee was ready to discuss and act upon this resolution.

Baron de Cartier said he wished to raise the question of the position in which the Grand Duchy of Luxemburg would be placed by the resolution just read by Mr. Root. On September 2, 1861, a treaty of commerce and navigation was concluded between China and the King of Prussia, the latter acting in his own

name as well as in the name of other members of the Zollverein, among which was the Grand Duchy of Luxemburg. When war had been declared between China and Germany, the Netherlands minister in Peking, Jonkheer Beelaerts van Blokland, in charge of the interests of the Grand Duchy in Peking, made representations to the Chinese Government, in order to protect Luxemburg interests, as the Grand Duchy did not go to war with China. It was Baron de Cartier's impression that the Grand Duchy was embraced in the "additional governments" mentioned in the resolution, but this should be made clear.

The chairman said that, subject to any observation to the contrary which might be made, he supposed that the Grand Duchy would be embraced within this clause and would be adequately represented. If there was no objection, the committee would so assume. He asked if any of the committee desired to discuss the resolution.

Jonkheer Beelaerts van Blokland asked—though he did not consider the point of material importance—if it was necessary for the amendment to contain the words "at present." He doubted whether there was sufficient reason to adopt the present moment as decisive. The suggested wording would make it impossible for a government recognized between the present moment and the

convening of the commission to participate in the revision.

The chairman said that his own suggestion was that the words "at present" furnished a datum with respect to which there was perfect certainty, because later there might be recognition by some powers and not by others, and there would be ambiguity which might possibly occasion some embarrassment.

Sir Robert Borden inquired whether the drafting sub-committee had considered the effect of the wording of paragraph 4 on States which were formerly part of the Russian Empire, but which were now independent powers whose governments had been recognized. He presumed that it was intended that these powers should have the right to be represented on the revision commission and at the special conference, if they so desired.

Mr. Balfour remarked that Finland and Poland had both been recognized.

Senator Underwood said that he was not sure that his viewpoint was the correct one, but as he understood the situation, China was sovereign as to her right to levy custom taxes except in so far as she had given away that right by treaty. Now it was proposed to change the treaty right by which power of the Republic of China was at present limited and to offer an increase in taxation at the customs house. No country that had not treaty relations with

China and obligations from China growing out of those treaties had any right to make any complaint whatever as to what China did in reference to taxes at the customs house. Her only binding obligation was in respect to the Governments with whom she had signed treaties. As to the other Governments, who would not be represented, they could not complain as a matter of right, because they had not established right in regard to China (any more than in regard to the United States or Japan) to control the customs taxation of China.

On the other hand, they could not complain of any undue advantage being taken of them, because these two papers, this resolution and the treaty that was to follow, prescribed everything to their advantage in providing that the "open door" into China should in the future mean equal opportunity to all, whether treaty powers or non-treaty powers, whether they sat at table to reform this tariff or not. Every one of them would go into China under the same conditions and, therefore, he could not see that any power that was not represented at the table could have any right to complain, especially as to this resolution, since in it the treaty powers were only complying with their contract with China heretofore made.

The chairman said that he

supposed this clause of the resolution defined those who were to be represented in the proposed commission. They were the Governments who were at present recognized by the powers represented at this conference and who had treaties with China providing for a tariff.

Mr. Koo said he wished to add a few words in regard to the actual situation in China with reference to non-treaty powers. According to the paragraph under discussion, for a country to have a representative on the commission mentioned therein it was necessary for several conditions to be present at the same time. One of these conditions was that the power in question should have a treaty with China in regard to import customs duties. Other powers (i. e., those not having such treaties) were necessarily precluded. As a matter of fact, the Chinese Government had already promulgated and put in force some time before a special tariff for non-treaty powers. If a lower rate than the 5 per cent authorized by the existing treaties had been granted to one of these non-treaty powers, such a reduction would probably have to be made applicable to all under the most-favored-nation clause. But the present rate of import duties on the goods of the non-treaty powers was higher than 5 per cent. In that respect the principle of "the open door," under

the present Chinese law could not be invoked to include non-treaty powers.

Sir Robert Borden reverted to the point which he already raised. He said that if the Government of Russia were recognized Russia would obviously be entitled under Paragraph IV of the resolution to be invited to send representatives to the proposed conference. But the present Russian Government was not recognized. On the other hand two States whose territories were formerly part of the Russian Empire—namely, Finland and Poland—were recognized, and the question the committee had to decide was whether the convening power would be bound to ask these two States to send representatives to the conference. The question might be taken into consideration afterwards, but in his opinion it would be necessary at some stage to determine whether or not Poland and Finland had succeeded to Russia's rights in respect of treaties which the former Russian Empire had concluded with China.

The chairman said Sir Robert Borden had stated that point with perfect clarity, and he thought that it was well understood. He asked if the committee desired to discuss the matter further, or were ready to act. The delegations being polled, each voted affirmatively, and the chairman announced that the resolution had been unanimously adopted.

The chairman asked if there was another resolution.

Mr. Root said he would read the resolutions proposing a convention covering the matters which were not to be done under the existing treaty. He then read the following:

"With a view to increasing the revenues of the Chinese Government, the United States of America, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands, and Portugal agree:

"I. That immediate steps be taken through a special conference, to be composed of representatives of the contracting powers and other powers which adhere to this convention, to prepare the way for the speedy abolition of likin and for the fulfilment of the other conditions laid down in Article VIII of the treaty of September 5, 1902, between Great Britain and China, in Articles IV and V of the treaty of October 8, 1903, between the United States and China, and in Article I of the supplementary treaty of October 8, 1903, between Japan and China, with a view to levying the surtaxes provided in those articles.

"The special conference shall meet in China within three months after the date of the ratification of this convention on a day and at a place to be designated by the Chinese Government.

"II. The special conference shall consider the interim pro-

visions to be applied prior to the abolition of likin and the fulfilment of the other conditions laid down in the articles of the treaties above mentioned; and it shall authorize the levying of a surtax on dutiable imports as from such date for such purposes and subject to such conditions as it may determine.

"The surtax shall be at a uniform rate of 2 1/2 per cent ad valorem, except in the case of certain articles of luxury, which, in the opinion of the special conference, can bear a greater increase without unduly impeding trade, and upon which the total surtax shall not exceed 5 per cent.

"III. That following the immediate revision of the customs schedule of duties on imports into China as provided for in a resolution adopted by the representatives of all powers signatory to this convention at a plenary session of the Conference on the Limitation of Armament held in the City of Washington on the—day of January, 1922, there shall be a further revision to take effect at the expiration of four years following the completion of the aforesaid revision in order to insure that the customs duties shall correspond to the ad valorem rates fixed by the special conference herein provided for.

"That following this revision there shall be periodical revisions of the customs schedule of duties on imports into China every

seven years for the same purpose in lieu of the decennial revision authorized by existing treaties with China.

"That in order to prevent delay such periodical revisions shall be effected in accordance with rules to be settled by the special conference mentioned in Article I herein.

"IV. That in all matters relating to customs duties there shall be effective equality of treatment and of opportunity for all powers parties to this convention.

"V. That the principle of uniformity in the rates of customs duties levied at all the land and maritime frontiers of China is hereby recognized; that the special conference above provided for shall make arrangements to give practical effect to this principle; and it is authorized to make equitable adjustments in those cases in which the customs privilege to be abolished was granted in return for some local economic advantage.

"In the meantime, any increase in the rates of customs duties resulting from tariff revision or any surtax hereafter imposed, in pursuance of the present convention, shall be levied at a uniform rate ad valorem at all land and maritime frontiers of China.

"VI. That the charge for transit passes shall be at the rate of 2 1/2 per cent ad valorem until the arrangements contemplated in Article I

herein come into force.

"VII. That the powers not signatory to this convention, but whose present treaties with China provide for a tariff on imports and exports not to exceed 5 per cent ad valorem, shall be invited to adhere to the present convention, and upon such adherence by all of them this convention shall override all provisions of treaties between China and the respective contracting powers which are inconsistent with its terms.

"That the United States Government, as convener of the present conference, undertake to make the necessary communications for this purpose and to inform the Governments of the contracting powers of the replies received.

"VIII. Ratification clause of usual form."

Mr. Root said that, in accordance with the resolution already adopted, there should be inserted some words in Article VII, so that it would read :

"That the powers not signatory to this convention having Governments at present recognized by the powers represented at this conference, but whose present treaties with China provide for a tariff on imports and exports not to exceed 5 per cent ad valorem, shall be invited to adhere to the present convention, and upon such adherence by all of them this convention shall override all provisions of treaties between

China and the respective contracting powers which are inconsistent with its terms."

Sir Robert Borden drew attention to the concluding portion of the first half of Article III and suggested that after the words "ad valorem rates" the words "then in force" should be substituted for the words "fixed by the special conference herein provided for."

Mr. Root said that would hardly correspond with the idea which the sub-committee on Chinese revenue had and which had been followed without any change whatever in this paragraph.

Sir Robert Borden said he thought that the treaty read "ad valorem rates fixed."

Mr. Root said that the sense of the paragraph was that, following the immediate revision of the schedules of duties which the commission would raise under the resolution that had been adopted, there should be a further revision to take effect at the expiration of four years following the completion of the aforesaid revision in order to insure that the custom duties should correspond to the ad valorem rates fixed by the special conference as in the treaty. It was not to make the customs duties correspond to the ad valorem rates in force but to the ad valorem rates fixed by the special conference, and to make the customs duties correspond to

the new ad valorem rates, if there should be any, not ad valorem rates already in force.

Sir Robert Borden, replying to Mr. Root, said that it was possible that the same result might be arrived at by leaving the words as they stood in the draft. But, if he understood the position correctly, the customs duties might at a future date consist of the 5 per cent now established by treaty and an additional surtax of  $2\frac{1}{2}$  per cent fixed by the special conference. The 5 per cent would not be fixed by that conference. His view, therefore, was that it would be preferable to have the last lines of the first clause of paragraph III read, as follows: "That the customs duties shall correspond to the ad valorem rates then in force." But he did not wish to press the point, which was purely one of drafting.

Mr. Root said that the surtax might run anywhere from  $2\frac{1}{2}$  to 5 per cent.

Sir Robert Borden agreed that it might on luxuries.

Mr. Root said that the commission would have to fix that, so that the yardstick they were to apply was not anything that the committee fixed, but something that the commission had to fix.

The chairman asked if Sir Robert Borden wished to press his suggestion.

Sir Robert Borden answered that he did not, as it probably

would be covered.

The chairman asked if any of the committee desired to say anything further regarding Article III. If, not, Mr. Sarraut desired to speak in regard to another article.

Mr. Sarraut said that he would ask to be enlightened with respect to Article I, especially with respect to the phrase "and other powers which adhere to this convention to prepare the way for the speedy abolition of likin and for the fulfilment of the other conditions laid down in Article VIII of the treaty of September 5, 1902, between Great Britain and China, in Articles IV and V of the treaty of October 8, 1903, between the United States and China, and in Article I of the supplementary treaty of October 8, 1903, between Japan and China, with a view to levying the surtaxes provided in those articles."

Mr. Sarraut said he believed that there had been certain changes from the first text prepared by Mr. Kammerer in which special reference had been made to "Articles IV and VIII of the treaties between the United States and China and to Article I of the supplementary treaty of October 8 between Japan and China." These references had not been made in the original text. Referring to the text of these treaties, Mr. Sarraut said he would like to ask the following question: Was it the intention of the articles

as drafted to oblige all nations to bind themselves by the terms of the most-favored-nation clause or was this done by error? If an automatic application of the most-favored-nation clause was intended, he must make a reservation, as his own Government might not agree. He believed that it would be better to omit the clauses referring to the most-favored-nation clause or to say that it was not desired to apply them automatically.

Mr. Root said the treaties referred to in Article I were the same treaties which were referred to in the original report of the committee on Chinese revenue. The only difference was that this draft specified the particular articles of those treaties which were supposed to be relevant to the subject matter of this instrument. It was rather to limit than to enlarge the reference in the original report, and the conditions which were referred to in Article I were the conditions upon which the powers entering into these treaties with China undertook to consent to the increase of duties; i. e., they agreed to consent to an increase of duties on condition that China did thus and so. No conditions were imposed upon any other power, so that no obligation whatsoever could be found in this article upon any of the powers other than China in respect of the most-favored-na-

tion clauses. That was his understanding of it.

Mr. Sarraut said that he took note of Mr. Root's statements, and would refer to them, if necessary. He felt he must point out, however, that if the text of the resolutions alone was considered it did not directly appear that the most-favored-nation clause did not automatically apply. In view of Mr. Root's explanations, however, he would not insist further upon the matter.

Sir Auckland Geddes said he assumed that it was quite clear—this was the way in which he read this paragraph—that, so far as the treaties in question bound countries other than China at the present time, they would bind only those countries afterwards, and that the provisions, for instance, of the Chinese-American treaty would not be extended to Chinese-British relations?

Mr. Root said he had no doubt of that.

The chairman asked if further discussion of this agreement was desired.

The delegations, being polled, each voted affirmatively and the chairman declared that the resolution and proposed agreement had been unanimously adopted.

Mr. Root said that there was a separate resolution which the sub-committee had directed him to report, as follows:

"That the Government of the United States, as convener of

the present conference, be requested to communicate forthwith the terms of the agreement arrived at with regard to the Chinese tariff to the Governments of powers not represented at the conference which have treaty rights in the matter, with a view to obtaining their adherence to the agreement as soon as possible."

Putting in the words which had been put into the other documents, it would read: "Communicate forthwith the terms of the agreement arrived at with regard to the Chinese tariff to the Governments of powers not represented at the conference which have treaty rights in the matter and have Governments at present recognized by the Governments represented at this conference."

Sir Auckland Geddes suggested that, instead of using the long clause which had been read, the resolution should read: "That the Government of the United States, as convener of the present conference, be requested to communicate forthwith the terms of the agreement arrived at with regard to the Chinese tariff to the Governments of the powers concerned as stated in this agreement with a view to obtaining their adherence to the agreement as soon as possible."

The chairman polled the delegations who voted affirmatively and announced that the resolution had been adopted unanimously.

## CHAPTER V

# THE CUSTOMS FUNDS

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At the 29th Meeting of the Committee on Pacific and Far Eastern Questions, held on February 1, 1922, the banking of China's customs revenue was discussed, but no definite action was taken.

The official minutes of the meeting run as follows:

The chairman said he understood that the arms resolution was withdrawn. He then said that there was a question relating to customs revenue in China of which he would ask Mr. Underwood to speak.

Senator Underwood said that at the time the sub-committee considering the customs revenue of China was holding its sittings, a question arose which met with the general approbation of the members of the sub-committee, but was not reported to the full committee. Since that time it had been suggested that the chairman ought to call the matter to the attention of the full committee in order that the record of the full committee might contain the statement. It related to the question of the deposit of

moneys collected under the customs revenues in the banks of China.

After the treaties were made in relation to the indemnities growing out of what was called the Boxer movement, it was provided that certain portions of the Chinese customs revenue should be set apart to meet the interest and amortization charges on the bonds issued at that time, and those customs revenues were deposited entirely, or almost entirely, in the Hongkong-Shanghai Bank and the Russo-Asiatic Bank. The amount of those revenues had been great, and, of course, were of great value to those institutions as compared to the other banks in China. He thought it was admitted that the allocation of those funds under the agreement made at the time of the issues of these bonds that he referred to a moment ago was a matter of contract and that portion of the revenue derived must continue to be deposited according to the understanding or the contract at the time.

Of course, the free revenue above the charge for amortization and interest on these bonds was at the disposal of the Chinese Government.

As a matter of fact, he thought on account of the revenue being collected paying less than 5 per cent effective there had not been much of a balance sheet on the side of the Chinese Government but under the resolution passed to make this 5 per cent effective that revenue would be largely increased. Of course, so far as the revenue was concerned, that was allocated to this particular purpose; that is, still controlled by the original allocation and the terms of it; but as to the balance, it was free revenue for disposition in any bank, of course controlled primarily by the Chinese Government.

Now, at the time the sub-committee was preparing its report, Mr. Odagiri, representing the Japanese Government on the sub-committee, made a statement which Mr. Underwood would read. Although other statements were made of a similar nature, as far as could be found out from the record of the sub-committee the other statements were not taken down in detail. The statement of Mr. Odagiri, however, represented what was said by most of the others present at the table and he would therefore read it.

"Japan not only has no objection to, but welcomes, the proposal that the existing

customs system of China should not be disturbed. In the meantime she must express the hope, in view of the important position which her Chinese trade occupies in the entire foreign trade of China and Japan's resulting large contribution to the Chinese customs revenues, that a fair and suitable adjustment may be effected with the above fact in view in regard to the future operations of the customs system; that is to say, concerning such matters as the custodian banks and the proportion of foreign nationals to be employed in the customs staff. We desire to make it clear, however, that this is not proposed as a condition of our acceptance of this agreement, but only as a frank expression of our desire. It is hoped that such special conference as is mentioned above in its deliberations upon the conditions involving questions such as custody and supervision of tariff revenues should take into consideration the above expressed desire of Japan."

And then the notes reported by the secretary general's office added:

"The delegates of France, Italy, Belgium, and Holland associated themselves with the Japanese delegation."

Senator Underwood wished to say that at the same time he also stated that he recognized the fact that the revenues that had already been allocated to the Chinese contracts would not

be changed because they were part of an existing contract, but other additional revenues were free to be deposited in such banks as could be determined.

He thought that so far as the present 5 per cent tariff was concerned, there could be no question that that which had been allocated to the payment of the interest on the bonds already issued, could not be deposited with other than the banks named before. As to the balance of that 5 per cent, it was free to be deposited in other banks when it was not needed and when it was turned over to the Chinese Government.

Now, as to the revenue that was to be derived by the additional surtax of 2 1/2 per cent, that would be in the control and under the determination of the special conference when it met, and that conference, in determining the putting into effect of this 2 1/2 per cent surtax would have the right and power, with the consent of China, of course, to a reallocation of these funds in the various solvent banks in China.

He did not think it was a question that this conference could settle; he thought it was far better to leave it to the special conference that had already been ordered to handle the customs tariff, because its members would meet in China, they would be in touch with the situation, they would know

better what to do.

Senator Underwood wished in conclusion to say that though he had no doubt that the two banks that had handled in the past the revenues of China, had done so efficiently and in an honorable way and effectively, yet for the large amount of revenue collected for governmental purposes in China to continue to go through separate banking institutions and all the other banks of China be deprived of deposits of that kind, would naturally lead to misunderstandings—not serious misunderstandings, but it did not appear to be an equal and fair distribution of the money involved. It gave undue power to certain institutions by reason of these government deposits. Now, Senator Underwood did not think it would be wise for this conference to take any further action in the matter; but he thought he could say it was the sentiment of the sub-committee that, in the reallocation of these additional funds, there should be an opportunity for other solvent banks of the various nations sitting at this board to have a reasonable amount of the deposits derived from these revenues. So far as he understood it, he thought that that sentiment met with the approval of the representatives of the Chinese Government on the sub-committee, and he hoped it met with the entire approval of the Chinese delegation.

## CHAPTER VI

# THE PLENARY SESSION

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At the Sixth Plenary Session, held on February 4, 1922, the final draft of the Customs' Treaty was announced to the public. The official minutes of the meeting run as follows:

Senator Underwood (speaking in English): Mr. Chairman, I realize fully that the delegates seated at this table understand why the nine Powers have agreed with China on the adoption of a customs tariff, but in this twentieth century treaties have ceased to be compacts of Governments. If they are to live and survive, they must be the understandings of the people themselves. (Applause.)

It may seem an anomaly to the people of the world who have not studied this question that this Conference, after declaring that it recognizes the sovereignty and territorial integrity of China, should engage with China in a compact about a domestic matter which is a part of her sovereignty. To announce the treaty without an explanation may lead to misunderstanding, and therefore I ask the patience of the Confer-

ence for a few minutes that I may put in the record a statement of the historic facts leading up to present conditions, which make it necessary that this Conference should enter into this agreement.

The conclusions which have been reached with respect to the Chinese Maritime Customs tariff are two in number, the first being in the form of an agreement for an immediate revision of existing schedules, so as to bring the rate of duty up to a basis of 5 per cent effective. The second is in the form of a treaty, and provides for a special conference which shall be empowered to levy surtaxes and to make other arrangements for increasing the customs schedules above the rate of 5 per cent effective.

In order to understand the nature and the reasons for these agreements, it is well to bear in mind the historical background of the present treaty adjustment, which places such a large control of the Chinese customs in the hands of foreign powers.

The origin of the Chinese customs tariff dates back to the fourteenth century, but the administration system was of such a nature that constant friction arose with foreign merchants engaged in trade with that country, and culminated in an acute controversy relating to the smuggling of opium, sometimes known as the Opium War of 1839-1842.

This controversy ended in 1842 with the Treaty of Nankin, between China and Great Britain. The Treaty of Nankin marked the beginning of Chinese relations on a recognized legal basis with the countries of the Western World, and is likewise the beginning of the history of China's present tariff system.

By the Treaty of Nankin it was agreed that five ports should be opened for foreign trade, and that a fair and regular tariff of export and import customs and other dues should be published.

In a subsequent treaty of October 8, 1843, a tariff schedule was adopted for both imports and exports, based on the general rate of 5 per cent ad valorem.

In 1844 the first treaty between China and the United States was concluded. In this treaty the tariff upon which China had agreed with Great Britain was made an integral part of its provisions, and most-favored-nation treatment was secured for the United States in

the following terms :

"Citizens of the United States resorting to China shall in no case be subject to other or higher duties than are or shall be required of the people of any other nation whatever, and if additional advantages or privileges of whatever description be conceded hereafter by China to any other nation, the United States and the citizens thereof shall be entitled thereupon to a complete, equal, and impartial participation in the same."

In the same year a similar treaty between China and France was concluded, and in 1847 a like treaty was entered into with Sweden and Norway.

After an interval of a little over a decade, friction again developed and a war ensued.

In 1851, when negotiations were again resumed, silk had fallen in value, prices of foreign commodities had changed, and the former schedule of duties no longer represented the rate of 5 per cent ad valorem.

In 1858 China concluded what was known as the Tientsin Treaty with the United States, Russia, Great Britain and France.

The British treaty, which was the most comprehensive, being completed by an agreement as to the tariff and rules of trade, was signed at Shanghai on November 8, 1858. By this agreement a schedule of duties was provided to take the place of the schedule previously in force. Most of the duties

were specific, calculated on the basis of 5 per cent of the prevailing values of articles.

The tariff schedule thus adopted in 1858 underwent no revision, except in reference to opium, until 1902.

The beginning of foreign administrative supervision of the maritime customs dates back to the time of the Taiping Rebellion, when, in September 1853, the city of Shanghai was captured by the Taiping rebels. As a consequence the Chinese customs was closed and foreign merchants had no offices to collect customs duties.

In order to meet the emergency, the foreign consuls collected the duties until June 29, 1854, when an agreement was entered into with the British, American and French consuls for the establishment of a foreign board of inspectors. Under this agreement a board of foreign inspectors was appointed, and continued in office until 1858, when the tariff commission met and agreed to rules of trade, of which Article X provided that a uniform customs system should be enforced at every port, and that a high officer should be appointed by the Chinese Government to superintend the foreign trade, and that this officer might select any British subject whom he might see fit to aid him in the administration of the customs revenue, and in a number of other matters connected with commerce and

navigation. In 1914, just as the Great War was breaking, there were 1,357 foreigners in the Chinese customs service, representing 20 nationalities among a total of 7,441 employees.

It is appropriate to observe that the present administrative system has given very great satisfaction in the matter of its efficiency and its fairness to the interests of all concerned, and in that connection I desire to say that, when the consideration of this tariff treaty was before the sub-committee that prepared it, there was a general and, I may say, universal sentiment about the table from the delegates representing the nine Powers, that on account of the disturbed conditions in China to-day, unsettled governmental conditions, it was desirable, if it met with the approval of China, that there should be no disturbance at this time of the present administration of the customs system. In response to that sentiment, which was discussed at the table, Dr. Koo, speaking for the Chinese Government, made a statement which I have been directed by the full committee to report to this plenary session, which is as follows:—

“The Chinese Delegation has the honor to inform the Committee on the Far Eastern Questions of the Conference on the Limitation of Armament that the Chinese Government have no intention to effect any change which may disturb the

present administration of the Chinese maritime customs."

Speaking only for myself, I hope that the day may not be far distant when China will have established a parliamentary government representing her people, and that thus an opportunity will be given her to exercise in every respect her full sovereignty and regulate her own customs tariffs.

But for the present, on account of the disturbed conditions in China, it is manifest that there must be an agreement and understanding between China and the other nations involved in her trade, and I want to say that this agreement as it is presented to the Conference to-day, meets the approbation of the representatives of the Chinese Government.

Between the period of 1869 and 1901 a series of agreements were entered into which establish special tariff privileges with various Powers respecting movements of trade. This period culminated in a greatly involved state of affairs which led to the Boxer Revolution, out of which grew the doctrine of the open door.

In 1902, in accordance with the terms of the Boxer protocol, a commission met at Shanghai to revise the tariff schedule. This revision applied only to the import duties and to the free list. Most of the duties were specific in character, and the remainder were at 5 per cent

ad valorem. Non-enumerated goods were to pay 5 per cent ad valorem. All the duties remained subject to the restrictions of the earlier treaties, and those of the export duties which are still in force are the specific duties contained in the schedule of 1858.

In 1902 a treaty was concluded between China and Great Britain which laid a basis for the subsequent treaties between China and the United States and China and Japan in 1903 along similar lines. In the preamble of the British treaty the Chinese Government undertakes to discard completely the system of levying likin and other dues on goods at the place of production, in transit, and at destination.

The British Government in turn consents to allow a surtax on foreign goods imported by British subjects, the amount of this surtax on imports not to exceed the equivalent of one and one-half times the existing import duty. The levy of this additional surtax being contingent upon the abolition of the likin has never gone into effect, but remains, nevertheless, the broad basis upon which the general schedules of Chinese tariff duties may be increased.

It is clear from the foregoing brief summary that two measures were necessary in dealing with the Chinese customs, the first being that of the revising of the tariff schedules as they exist, so as to make them con-

form to the rate of 5 per cent effective, as provided by the treaty.

Second, to pave the way for the abolition of the likin, which constitutes the basis of higher rates. In the meantime, however, it is recognized that the Chinese Government requires additional revenue, and in order that this may be supplied, a special conference is charged with the levying of a surtax of  $2\frac{1}{2}$  per cent on ordinary duties, and a surtax of 5 per cent on the luxuries, in addition to the established rate of 5 per cent effective.

In 1896 an agreement was made between Russia and China for the construction of the Chinese Eastern Railway, and as a part of this agreement, merchandise entering China from Russia was allowed to pass the border at one-third less than the conventional customs duties. Afterwards, similar reductions were granted to France Japan and Great Britain, where the merchandise entered China across her land frontiers and not by sea.

This discrimination was unfair to the other nations, and not the least important paragraph in the proposed treaty is the one which abolishes this discrimination entirely.

Mr. Chairman, I shall not read the formal parts of the treaty; I shall merely read the articles that are substantive.

The first article reads:

#### Article I.

"The representatives of the Contracting Powers having adopted, on the fourth day of February 1922, in the city of Washington, a resolution, which is appended as an Annex to this article, with respect to the revision of Chinese customs duties, for the purpose of making such duties equivalent to an effective 5 per centum ad valorem, in accordance with existing treaties concluded by China with other nations, the Contracting Powers hereby confirm the said resolution and undertake to accept the tariff rates fixed as a result of such revision. The said tariff rates shall become effective as soon as possible but not earlier than two months after publication thereof."

Then follows an annex. It was intended originally for a separate resolution by the Conference to make the present rate effective. As I have stated, the rates of Chinese customs tariff were 5 per cent ad valorem, but they have been worked into specific rates, and China was not receiving under the old customs system the amount of revenue that she was entitled to under her treaty. But it was found when it was proposed to pass this merely as a resolution that as these rates had been fixed in some of the treaties and specifically named, it was necessary to include the resolution in the treaty so that

it would abolish the binding power of the treaties that had already been made and substitute this new provision in their stead.

The annex reads as follows :

#### Annex

"With a view to providing additional revenue to meet the needs of the Chinese Government, the Powers represented at this Conference, namely, the United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands and Portugal, agree :

"That the customs schedule of duties on imports into China adopted by the Tariff Revision Commission at Shanghai on December 19, 1918 shall forthwith be revised so that the rates of duty shall be equivalent to 5 per cent effective, as provided for in the several commercial treaties to which China is a party.

"A revision commission shall meet at Shanghai, at the earliest practicable date to effect this revision forthwith and on the general lines of the last revision.

"This commission shall be composed of representatives of the Powers above named and of representatives of any additional Powers having Governments at present recognized by the Powers represented at this Conference and who have treaties with China providing for a tariff on imports and exports

not to exceed 5 per cent ad valorem and who desire to participate therein.

"The revision shall proceed as rapidly as possible with a view to its completion within four months from the date of the adoption of this resolution by the Conference on the Limitation of Armament and Pacific and Far Eastern Questions.

"The revised tariff shall become effective as soon as possible, but not earlier than two months after its publication by the revision commission.

"The Government of the United States, as convener of the present Conference, is requested forthwith to communicate the terms of this resolution to the Governments of Powers not represented at this Conference but who participated in the revision of 1918, aforesaid."

Then, the actual treaty provisions are incorporated, beginning with Article II, as follows:

#### Article II.

"Immediate steps shall be taken, through a special conference, to prepare the way for the speedy abolition of likin and for the fulfillment of the other conditions laid down in Article VIII of the Treaty of September 5, 1902, between Great Britain and China, in Articles IV and V of the Treaty of October 8, 1903, between the United States and China, and in Article I of the Supplementary

Treaty of October 8, 1903, between Japan and China, with a view to levying the surtaxes provided for in those articles.

"The special conference shall be composed of representatives of the Signatory Powers, and of such other Powers as may desire to participate and may adhere to the present Treaty, in accordance with the provisions of Article VIII, in sufficient time to allow their representatives to take part. It shall meet in China within three months after the coming into force of the present Treaty, on a day and at a place to be designated by the Chinese Government."

#### Article III.

"The special conference provided for in Article II shall consider the interim provisions to be applied prior to the abolition of likin and the fulfillment of the other conditions laid down in the articles of the treaties mentioned in Article II; and it shall authorize the levying of a surtax on dutiable imports as from such date, for such purposes, and subject to such conditions as it may determine.

"The surtax shall be at a uniform rate of 2 1/2 per centum ad valorem; provided, that in case of certain articles of luxury which, in the opinion of the special conference, can bear a greater increase without unduly impeding trade, the total surtax may be increased but may not exceed 5 per centum ad valorem.

#### Article IV.

"Following the immediate revision of the customs schedule of duties on imports into China, mentioned in Article I, there shall be a further revision thereof to take effect at the expiration of four years following the completion of the aforesaid immediate revision, in order to ensure that the customs duties shall correspond to the ad valorem rates fixed by the special conference provided for in Article II.

"Following this further revision there shall be, for the same purpose, periodical revisions of the customs schedule of duties on imports into China every seven years, in lieu of the decennial revision authorized by existing treaties with China.

"In order to prevent delay, any revision made in pursuance of this Article shall be effected in accordance with rules to be prescribed by the special conference provided for in Article II.

#### Article V.

"In all matters relating to customs duties there shall be effective equality of treatment and of opportunity for all the Contracting Powers.

#### Article VI.

"The principle of uniformity in the rates of customs duties levied at all the land and maritime frontiers of China is hereby recognized. The special conference provided for in Article

II shall make arrangements to give practical effect to this principle; and it is authorized to make equitable adjustments in those cases in which a customs privilege to be abolished was granted in return for some local economic advantage.

"In the meantime, any increase in the rates of customs duties resulting from tariff revision, or any surtax hereafter imposed in pursuance of the present Treaty, shall be levied at a uniform rate ad valorem at all land and maritime frontiers of China.

#### Article VII.

"The charge for transit passes shall be at the rate of 2 1/2 per centum ad valorem until the arrangements provided for by Article II come into force.

#### Article VIII.

"Powers not signatory to the present Treaty whose Governments are at present recognized by the Signatory Powers, and whose present treaties with China provide for a tariff on imports and exports not to exceed 5 per centum ad valorem, shall be invited to adhere to the present Treaty.

"The Government of the United States undertakes to make the necessary communications for this purpose and to inform the Governments of the Contracting Powers of the replies received. Adherence by any Power shall become effective on receipt of

notice thereof by the Government of the United States.

#### Article IX.

"The provisions of the present Treaty shall override all stipulations of treaties between China and the respective Contracting Powers which are inconsistent therewith, other than stipulations according to the most favored nation treatment.

#### Article X.

"The present Treaty shall be ratified by the Contracting Powers in accordance with their respective constitutional methods and shall take effect on the date of the deposit of all the ratifications, which shall take place at Washington as soon as possible. The Government of the United States will transmit to the other Contracting Powers a certified copy of the proces-verbal of the deposit of ratifications.

"The present Treaty, of which the English and French texts are both authentic, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to the other Contracting Powers.

"In faith whereof the above named plenipotentiaries have signed the present Treaty.

"Done at the City of Washington the sixth day of February, one thousand nine hundred and twenty-two."

In conclusion, I can say that

the adoption of this treaty and putting it into effect will in all probability double the existing revenues of China received from maritime and inland customs. I say in all probability, because the amount of revenue of course is governed by the amount of imports and exports coming into a country and going out of a country, and naturally no one can predict with absolute certainty.

The Chinese Government is badly in need of this revenue, and it will be a great relief to existing conditions there if the treaty is ratified at an early date. I request its ratification.

The Chairman (speaking in English): The French Delegation has been kind enough to waive the translation into French of Senator Underwood's speech.

The resolutions to which Senator Underwood referred, which have been adopted in the committee, and the Treaty embodying these resolutions, are before you for adoption and approval. Is there any discussion?—Mr. Sze. (Applause.)

Mr. Sze (speaking in English): Mr. Chairman and gentlemen, with reference to the Chinese tariff question, I desire to thank Senator Underwood for his clear exposition of its origin and its historical development, and also for his sympathetic appreciation of the united and ardent aspiration of the Chinese peo-

ple toward the recovery of tariff autonomy, so essential to the well-being of China. As the views of the Chinese Delegation on the various aspects of this question have been fully set forth in the various statements made by my colleague, Dr. Koo, at several meetings of the Committee on Far Eastern Questions, I shall content myself, Mr. Chairman, with a request that the following statements be spread upon the records of this session, namely: the statement of January 5, 1922; the statement of January 16, 1922; and the statement of February 3, 1922.

Senator Underwood's statement that the present customs treaty is drawn up to meet only the present temporary conditions in China coincides with the understanding of the Chinese Delegation and the aspirations of the Chinese people, who look eagerly toward the earliest restoration of full tariff autonomy.

I may add that the present seeming disarray and unrest in China is only a transition, unavoidable in the great change of a country from a despotic form of government to that of a democratic republic. This has been the experience of all the countries of the world. The Chinese people are fully convinced, that, with their genius and their experience of four thousand years of government, they will be able to evolve, at an early date, an united and strong China. (Applause.)

# DISCUSSION IN U. S. SENATE

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China's tariff was rather fully discussed when the Tariff Treaty was brought up for discussion in the United States Senate, in March 1922. About half a dozen United States Senators felt called upon to comment in open session on the evident injustice to China of the international convention that was adopted by the Washington Conference. Senator Lodge remarked that if any explanation were necessary they could be given by Senator Underwood. Senator Underwood was heckled by several of his colleagues, and in defending himself made many frank statements about the tariff treaty. These remarks are important as they show the sentiment of the United States Senate, before which any treaty that may later be negotiated on this subject will have to be submitted for ratification.

The debate on China's tariff appears in the Congressional Record of March 30, 1922, and runs as follows:-

Mr. Lodge.—If any explanation is required, the Senator from Alabama, to whose skill and ability we owe this treaty, is the person to make it.

Mr. Underwood.—Mr. President, I realize that if there is a sovereign power that exists in a

government which is necessary to the life of a government it is the power to raise revenue to support the government because no government can exist without that power. I recognize fully that the right to control customs revenue in a government is a part of its sovereign power. So the question of the Senator from Utah as to whether the treaty invades the sovereign power of China is a pertinent one. On its face and without explanation I think it might be regarded that the treaty did invade that sovereign power, but we have to understand the history of this case to some extent in order to understand the necessity for the treaty.

Because nations possess sovereign powers, and sometimes sovereign powers that are vital to the life of the nation, it does not at all mean that they do not sometime yield a part of those sovereign powers and make concessions of their sovereign powers for their own good and the good of the world. We have done so in some of the treaties we have ratified within the last week. All nations do so. We have made a treaty yielding our sovereign right to control the waters of the St. Lawrence River in order to preserve Niagara. It is a

matter of very small moment, and yet we have yielded our sovereign control over the waters of that river. There are many other instances where sovereignty is yielded.

O' course, I realize the power of taxation is a very vital part of sovereignty; but this situation has grown up. It is a condition where we are acting for the benefit of China. I think it was in 1853 that the so-called opium war took place. I shall not go into all the details, but during the progress of the war the American, British and French consuls took possession of some of the ports of China and administered the customs revenues. There was great confusion in the administration of the customs revenues, and afterwards China yielded to Great Britain a concession that she would not charge on imports coming into the territory of China more than 5 per cent ad valorem. Two years later she made the same concession to the United States.

Mr. Williams.—To France.

Mr. Underwood—I thought it was the United States second and France third. The Senator from Mississippi may be right. At any rate, in two or three years concessions were made to the United States and France, and then to the other nations, including the eight nations which signed the pending treaty contract, and in addition to those were Spain and Sweden.

Those treaties ran along for a number of years and were renewed from time to time until we came down to this question.

Before going into the treaties I wish to answer the question of the Senator from Utah. When the conference met on Far Eastern questions we found that there were 10 nations in the world with whom China had made treaty contracts surrendering that portion of her sovereignty, and by those contracts had agreed not to charge more than 5 per cent ad valorem or equivalent duties in specific rates against the goods of those countries crossing the Chinese border. That may seem very remarkable. I am not justifying those treaties. They happened long before our time. I wish the Senate to remember that such treaties have not only been made with China, but some years ago, and not so many years ago, under the McKinley tariff, this Government of ours made certain reciprocity treaties with other countries by which we agreed that we would only charge certain tariff rates against certain countries, and in fact under present laws we have made certain concessions in tariff rates not probably as far as this tariff rate goes, but along the same line. So our own Government from time to time has made concessions to other governments limiting the amount of tariff duties which we would charge.

Mr. Hitchcock.—Mr. President, can the Senator from Alabama see distinction between the condition of China, though, and the condition of an independent and powerful country like the United States, which may make a reciprocal bargain with another country and for the reciprocal good of the two countries agree with the other upon tariff rates? Here is the case of a tariff being forced upon China from which China gets no compensating benefit, various countries simply uniting and compelling China to accept an utterly inadequate tariff.

Mr. Underwood.—I will say to the Senator from Nebraska that there is no difference in principle; but I see the point that the Senator makes. Of course, there is no difference between the United States making the concession of a lower tariff or lowering our tariff walls to a South American Republic, as we have done under reciprocal treaties, and the agreement which China makes in this instance. I understand what the Senator means is that he thinks China was forced into this agreement; but I want to assure him that that is far from being the fact. Not one syllable of this treaty was written until China first consented and asked that it be done.

Mr. Williams.—It was framed on China's initiative, was it not?

Mr. Underwood.—Yes.

Mr. King.—Will the Senator yield to me?

Mr. Underwood.—Yes; I yield.

Mr. King.—I apologize for interrupting the Senator.

I take the Senator's word as to the attitude of the delegates representing the Peking Government, but the Senator certainly must know that there has been profound disappointment expressed by the Chinese people over the treaty; and that the Cantonese government and its representatives, call them revolutionary or not—I express no opinion in regard to that—have denounced this treaty as being hostile to the best interests of China and as having been imposed upon her by a group of nations which are seeking her economic, if not her political, destruction.

Mr. Underwood.—I am not responsible for what "hot-air artists" may contend, either in China or elsewhere, I know that some of the leading men in the Cantonese government approve of this treaty. They may not have so announced publicly, but I know it otherwise.

More than that, I know that in every country there is an organization party which supports the government, and there is also an opposition party; and the opposition criticizes anything which the government does. I know that this treaty was not only made at the request of China—I know it because I prepared the treaty, and I spent four weeks in consultation about it—but I know that it met with the approval

of the Chinese Government before it ever was reported to the plenary session of the conference.

Mr. King.—Will the Senator yield to me?

Mr. Underwood.—I will.

Mr. King.—The Senator from Alabama may denominate the persons in China who are opposed to the Peking military regime as "hot-air artists"; he may make any criticism he pleases of them; but I venture to state that he will discover that the mass of the China people will resent this treaty, and he will find that instead of those persons in China who are opposed to this treaty being "hot-air artists" they constitute a formidable part of the Chinese people.

Mr. Underwood.—I think the Senator is entirely wrong.

Mr. King.—Time will tell.

Mr. Underwood.—The Senator from Utah is entirely wrong, because he does not understand the facts. If the Senator really understood this issue, he would not be wrong about it; but he does not understand China's position.

I want to call the attention of the Senator from Utah to the real situation. I do not believe the Senator from Utah is a member of the Foreign Relations Committee, but the Senator from Nebraska (Mr. Hitchcock) is, and therefore he will know what I shall say is correct. Before I come to this particular treaty, however, I

wish for a moment to review the history of the matter. Under the original treaty with China, starting in 1853, and coming on down China had agreed to charge a duty of 5 per cent ad valorem on goods coming into China, or specific rates equal to that.

Mr. Williams.—Not less?

Mr. Underwood.—Not more than 5 per cent. The treaties on that subject were renewed from time to time, but for convenience the 5 per cent ad valorem was converted into a specific duty in all instances. For instance, if a suit of clothes worth \$10 was imported into China, a 5 per cent ad valorem rate would be 50 cents; but instead of leaving the duty at 5 per cent ad valorem to vary with the clothes, by treaty agreement the ad valorem rates were converted into specific rates, and it was provided that the duty on a suit of clothes should be not 5 per cent but 50 cents. Of course, I am speaking only figuratively, because that was not the actual rate of duty. As time went by the value of goods went up, so that instead of a suit of clothes being worth \$10, say, it increased to \$15. Then the duty charge of 50 cents did not represent a 5 per cent ad valorem basis, but much less—about 3 1/4 per cent. China then asked of the nations that they carry out their treaty with her by making her 5 per cent duty effective; that

is, to give her 5 per cent really on the true value of the goods. So the nations agreed to the request, and the rate was changed from time to time. No longer ago than the 26th day of May, 1921, the Senate of the United States ratified a treaty with China which attempted to make that 5 per cent rate effective. That treaty was reported by the Foreign Relations Committee and ratified by the Senate, as I have stated, on the 26th day of May, 1921, approved by the President on October 30, 1921, and finally proclaimed on the 7th day of November 1921, a few days before the meeting of the Washington Conference. That was the most recent attempt by the United States by treaty to make the 5 per cent ad valorem rate effective.

When China came to the conference she said that the 5 per cent duty which, not the conference, not myself, but which the Senate of the United States on the 26th of last May made for her, did not afford sufficient revenue to enable her to run her Government.

Mr. Lodge.—Mr. President, may I interrupt the Senator for a moment?

Mr. Underwood.—Certainly.

Mr. Lodge.—I merely wish to call the attention of the Senator and of the Senate to the fact that our present existing customs treaty with China was signed at Washington in October, 1920, having

been negotiated by Bainbridge Colby and Mr. Wellington Koo, representing China. That treaty was not ratified and did not go into effect until the dates stated by the Senator from Alabama.

Mr. Hitchcock.—Mr. President, I wish to say that I very well recall when that treaty was before the Committee on Foreign Relations, and I should most certainly have opposed it and made the best fight I could against it had it not been for the fact that it did slightly better the condition of China.

Mr. Lodge.—It certainly did.

Mr. Hitchcock.—I thought then and I said then and I think now that it is a perfect outrage for the great nations of the world, while pretending to recognize the independence of China, to dictate to her as to what her revenues shall be and what tariffs she shall levy.

Mr. Lodge. I agree with the Senator in principle entirely as to that, but we have to look at the other side of the picture. Suppose we should not ratify this treaty. In that event China will be bound hand and foot by the old treaty. The pending treaty gives her a very substantial increase in her revenues. If we defeat it, she must continue with the old duties. So far as it being American policy is concerned, I merely mention the fact that we have had customs treaties with China since 1853.

Mr. Hitchcock.—I really think, if the Senator from Alabama will permit me, that we commit a most egregious act of insincerity when in the first article of the treaty just ratified we say—

(1) The contracting powers—other than China, agree to respect the sovereignty, the independence, and the territorial and administrative integrity of China—

And then combine to impose this outrage upon her. I think that is hypocrisy ingrafted onto a treaty. I think if we were going to do that thing we ought to say that we propose to deprive China of that much of her independence and that much of her sovereignty and dictate to her a 5 per cent tariff. I can not view it as anything else than an outrage committed by powerful nations in combination, and it is all the more egregious when we take into account that China, as we all know, is suffering because her national Government can not raise even enough revenue to pay Japan \$15,000,000 or \$20,000,000 cash to buy the Shantung Railroad, that that railroad has got to remain part in the control of Japan on that account.

Mr. Underwood, I think the Senator is mistaken about that. My information as to the Shantung Railroad is that they could raise the cash although not through the Government but by the people. They do not

expect to raise it by the Government.

To come back to this treaty, if the Senator will examine on the record my statement, when I reported the treaty to the committee, on Far Eastern questions and my statement at the plenary session of the conference, he will note that I called attention there to this very thought and said I hoped the day was not far distant when complete autonomy could be given to China in the control of her tariff rates. I wish to say that, so far as I am concerned, I should be glad to have that done now, but China does not want it now; it would be most inconvenient to China to have it conceded now. I say, however, that it does not lie in the mouth of the Senate of the United States to criticize the work of a commissioner of the President in trying to raise the tariff duties which China could levy when within the year the Senate of the United States has ratified an independent treaty with China confining her tariff rates to 5 per cent effective.

Mr. Walsh of Montana. I rise, Mr. President, to inquire of the Senator what nations there are which insist upon imposing these restrictions upon China? I assumed that the American delegates and the American public had every desire to free China from every restriction in relation to her revenues; I assumed that the American delegates did every-

thing they could to attain that end.

Mr. Underwood. The Senator is entirely right.

Mr. Walsh of Montana. But they could not get everything they wanted for China by reason of the opposition of some other countries which wanted to keep her tied down. So I rose to inquire what other countries there are which want to keep China restricted. But now I learn from the Senator, if I understood him right, that in the judgment of the American delegates they continued to keep China tied down for her own good.

Mr. Underwood. Oh, no; not the American delegates. The Senator is wrong about that; but he is entirely right about the proposition in general. I represented the American delegation in writing this treaty, and I stated repeatedly what the Senator says.

I did not agree to one word in the treaty until China's representatives agreed to it first. More than that, I stated what Senators on this floor do not seem to be willing to concede, and that is that this is a sovereign right and it is in regard to a trade contract, and that China has the right this hour, or this day, if she wants to, to denounce the existing contracts and this contract, and to renew her entire autonomy with reference to writing these tariff rates. I stated that on the floor of the

far eastern committee without contradiction; so that when Senators are trying to make it appear here that this is in opposition to the interests of China they are overlooking entirely the fact that this is not one of those treaties that once made can not be revoked. We did it. We made certain concessions in the reciprocity treaties under the McKinley bill to certain Republics in South America and probably some others—I do not recall all, but certainly to the South American Republics—conceding them lower rates of tariff under certain conditions; and then, without rhyme or reason or asking consent, the Government of the United States passed the Dingley bill and revoked every one of those concessions without saying “by your leave” or anything else. It has been repeatedly done: and it can be done in this instance.

The Senator from Massachusetts was in his seat in the committee when I made that announcement in reference to this very matter, and it did not bring about a dispute. It was not denied, and, more than that, it was conceded by some of the ablest delegates there, so that all of this idea that some wrong is being done China by this treaty is a mere imagery. It does not exist. China wants to keep these treaties. She has the right to denounce them. This is the

right recognized in international law. There are certain classes of treaties that can not be denounced. The Senate itself passed here, at the instance of the senior Senator from Washington (Mr. Jones) a joint resolution denouncing a lot of trade contracts in reference to the shipping of this country, and the former President of the United States signed the joint resolution. There was nothing unusual in this. China can denounce these treaties if she wants to, but she does not want to. What China does want in this matter is to get more money, and I, representing the American delegation on that subcommittee tried to arrange this treaty so as to conform as nearly to her desires as I could.

Of course, I met with some objections. One of the greatest difficulties that I had in arranging this treaty grew out of the fact that notwithstanding the fact that we had a favored nation treaty with China, she had a number of years ago conceded to Russia first a reduction of duties of one-third for goods crossing the Russian border and then, when France demanded the same right in Indo-China, she made the same concession there, and England demanded it at Hongkong, and she made it there, with the result that although for years we had a favoured nation clause treaty with China, and so did some of the other countries, because

these demands had been made upon her she had made the concession. I admit that when it was originally made it did not seriously affect us, because the class of goods coming in from Russia were not in competition with the class of goods coming from America, and the rate existing then was only  $3\frac{1}{4}$  per cent, because the 5 per cent was not effective, and a third of it was only about 1 per cent; but if these rates of duty are going to be increased to  $12\frac{1}{2}$  per cent, then one-third would be \$4 on the hundred, and it would have been a very serious discrimination against the United States if it had been maintained.

I do not care to discuss the difficulties with other countries, because that is not necessary and it is not a wise thing to do; but there were some grave difficulties in securing the concession in this treaty that lets our goods of all other nations go into China on the same basis, whether by land or by sea.

Mr. Watson of Georgia. Mr. President—

The Presiding Officer (Mr. Wadsworth in the chair). Does the Senator from Alabama yield to the Senator from Georgia?

Mr. Underwood, Yes; I yield.

Mr. Watson of Georgia. I will ask the Senator from Alabama if it is not true that in each instance which he has mentioned China yielded to force, and

is she not yielding to force now?

Mr. Underwood.—No; she is not. I can say that of my own knowledge. She did yield to force in the beginning about this, in all probability, but she is not yielding to force now, and I know it because I will tell the Senator from Georgia that at one time in these negotiations I thought they were about to fail, and I told the representative on the committee from China—I was chairman of the committee—that I was ready to report the matter back to the full committee and say that we could go no further we would have to fail of action; and he earnestly urged me, on behalf of his government, to do all I could to put this treaty through as we have it.

Mr. Pittman.—Mr. President—

Mr. Underwood.—I yield.

Mr. Pittman.—This treaty is better than those they had, and this was the best that you could get, and they knew it.

Mr. Underwood.—To be sure; but there are other reasons why they want this treaty now, and I hope the Senator will not ask me to express them on the floor. There are other good reasons why China prefers to have this treaty now. She could denounce the treaty if she wanted to.

Mr. Pittman.—Mr. President, I intend to vote for this treaty, and that is one of the two reasons why I propose to do so. The other reason is that both

the Senator from Alabama and the Senator from Massachusetts have expressed the same view of the principles involved in this matter that is held by all of us.

Mr. Underwood.—To be sure.

Mr. King.—Mr. President, may I ask the Senator a question?

Mr. Underwood.—I yield.

Mr. King.—If I understand the Senator, the situation in brief is this; China was bound by half a dozen chains. This releases one chain, but still leaves her bound by five chains.

Mr. Underwood.—No; it releases the whole situation as far as it goes. I will say to the Senator that the Chinese people are very slow ever to repudiate a contract or an obligation. They have the right to denounce a trade obligation. We have done it. Other nations have done it. China has the right to do it, but she is very slow to denounce any obligation that she has made. She much prefers to make a new obligation to carry out what is necessary for her conditions, and she preferred to enter into this new obligation, giving her greater revenue, improving the conditions of her tariff revenue, and not disturbing its present administration. That is the important thing to her right now—its present administration.

Under its present administration all the revenues collected, even in the Provinces of Canton that are said to be in rebellion, go to Peking. The military mand-

arins in the Provinces do not get this revenue, as they take the internal revenue that comes out of the Provinces, that no longer goes to Peking and formerly went there. So the Government of China does not desire at this time to have this condition disturbed although her representatives and delegates have repeatedly said that they hoped the day was not far distant when complete autonomy in the management of their own revenues might be in their hands, and in that statement I have repeatedly agreed with them. I agree with them now. They do not want it now.

Of course, as far as our Government is concerned, it is entirely within the power of our Government to ratify this treaty and allow China to get the increased revenue that she desires under it, and then, if we want to, pass a separate resolution notifying China that we no longer hold her to this contract, and that she can charge our merchandise going into China as much as she pleased; but I do not think that would be the wise thing to do. We must be just to China, but we must also be just to ourselves. We have a very large trade in China, a developing trade; and if we want to be just to our own people, why should we say that we will tear down the wall and allow China—I do not think China would take advantage of it, if you want to ask my opinion about

that; I think she would be fair—but why should we allow China to impose a limited rate on the imports coming from other countries into China and allow her to put an increased and a higher rate on the merchandise coming out of America? Is that what we want to do to protect American trade and American citizens and American rights? We have some rights in this matter; but I think the thing to do is to enter into this treaty that China wants us to ratify. It is the best that we can make.

Mr. Overman. Mr. President, do I understand that we have ratified a treaty of this kind before.

Mr. Underwood. Within the year—the Senator from North Carolina ratified it—one that gave her only 5 per cent, effective, and I am trying to give her 12 per cent. Here it is. It is on my desk if the Senator wants to see it—a treaty setting out the specific rates on each article.

Mr. Hitchcock. Mr. President, of course it is fair to say that the reason why that treaty was ratified without any objection was that it took the place of a treaty that was worse. It gave China some relief.

Mr. Underwood. Oh, to be sure; the Senator is right about that; but this treaty does the same thing. It gives China this much more relief.

Mr. Hitchcock. I do not want to be too critical of this particular

item in the treaty, because I think there are some provisions in the treaty that are desirable; but I should like to ask the Senator, if he is at liberty to answer the question, what nation objected to relaxing that rule against China and giving China more latitude in fixing her tariff duties.

Mr. Underwood. Objections were made. I hope the Senator will not ask me that question. Those objections were made not so much in open session as they were in private conversation, because a representative at a session could merely say, "I refuse assent," and those who were dealing with him had to work it out. I think it is far better for international intercourse to assume that the objections were made, and not to attempt to place the responsibility here. I think it is better for our country, it is better for China, and I hope the Senator will not push the inquiry.

Mr. Hitchcock. I have not any desire to pry into any objectionable matter.

Mr. Underwood. Objections were made; but I want to say that the objections that were made were not to giving China entire autonomy in the control of her tariff, because she never asked, it. Her delegates said they hoped it would be granted at some other date, and they would ask it, but in this convention they have never asked it, and we recognized that at this time it was not desirable

for them to get it.

Mr. Hitchcock. What reason was there for compelling China to adopt a tariff lower than the other countries?

Mr. Underwood. As I said, this was practically what China asked at this time. Of course, when you come to change tariff rates you very seriously affect commerce. The commerce of some of these countries in that section of the world was very much tied up in the Chinese trade. They said that if these rates were unduly increased suddenly it would produce a reaction on their home Governments, because, in hard and difficult times like this, it would likely destroy business enterprises in their countries, and that radical, sudden change should not be made at this time.

Mr. Hitchcock. I think that was a very reasonable objection; but why, then, was it not proposed to create a commission composed of representatives of these interested powers, so that the tariff might be changed from time to time, in the contingencies, and it would have an elastic character?

Mr. Underwood. There is a commission provided for in this treaty, except that there is a limit on the rate. The rate is still limited, but the commission has been created. It will not be a very difficult proposition in the future. If China says she needs more tariff rates, this raises the limit, so to speak,

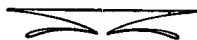
and authorizes a commission to operate. The commission is provided for in this treaty.

Mr. Hitchcock.—However, the commission is given no power to increase the maximum.

Mr. Underwood.—Not to go in the first instance above  $7\frac{1}{2}$  per cent, and when the McKaye class of treaties is agreed to, not to go above  $12\frac{1}{2}$  per cent; but to that extent the commission can operate, and that has not been done before. This is a very much more liberal proposition, both in rate and in power than the treaty which was ratified by the senate last May; and more than that, this treaty leads; it is on the way to complete autonomy for China in the control of their tariff rates, whereas the treaty which was ratified last spring by the Senate had not-

hing of that kind in it.

I want to say to the Senate that I would be glad, so far as I am concerned, to give China complete autonomy to-morrow in the control of her tariff rates. I want to see China as independent and as sovereign a nation as possible. I want to say to my colleagues here that I did my utmost to aid China in accomplishing what she wanted in reference to the tariff, and if this treaty were defeated it would not help China. It would throw her back on the treaty which was ratified last May, holding her down to 5 per cent effective, giving her no commission, and at the same time you would leave the discrimination on the Russian and Indo-China border against the merchandise of your own country.



## CHAPTER VIII

# THE TARIFF TREATY

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The complete text of the Tar-  
riff Treaty which has just been  
deposited in the archives of the  
American Government at Wash-  
ington, is as follows :

The United States of America,  
Belgium, the British Empire,  
China, France, Italy, Japan,  
The Netherlands and Portugal :

With a view to increasing  
the revenues of the Chinese  
Government, have resolved to  
conclude a Treaty relating to  
the revision of the Chinese  
customs tariff and cognate mat-  
ters, and to that end have ap-  
pointed as their Plenipoten-  
taries :

The President of the  
United States of America :

Charles Evans Hughes, Henry  
Cabot Lodge, Oscar W. Un-  
derwood, Elihu Root, citizens  
of the United States ;

His Majesty the King of the  
Belgians:

Baron de Cartier de Mar-  
chienne, Commander of the  
Order of Leopold and of the  
Crown, His Ambassador Ex-  
traordinary and Plenipotentiary  
at Washington;

His Majesty the King of the

United Kingdom of Great  
Britain and Ireland and of the  
British Dominions beyond the  
Seas, Emperor of India:

The Right Honourable Arthur  
James Balfour, O.M., M.P., Lord  
President of His Privy Council;  
The Right Honourable Baron  
Lee of Fareham, G.B.E., K.C.  
B., First Lord of His Ad-  
miralty;

The Right Honourable Sir  
Auckland Campbell Geddes, K.  
C.B., His Ambassador Extraor-  
dinary and Plenipotentiary to  
the United States of America;  
and for the Dominion of Canada:

The Right Honourable Sir Ro-  
bert Laird Borden, G. C. M. G.,  
K.C.; for the Commonwealth of  
Australia: Senator the Right  
Honourable George Foster Pearce,  
Minister for Home and Terri-  
tories; for the Dominion of New  
Zealand: The Honourable Sir  
John William Salmond, K.C.,  
Judge of the Supreme Court of  
New Zealand; for the Union of  
South Africa: The Right Hon-  
ourable Arthur James Balfour,  
O.M., M.P.; for India: The Right  
Honourable Valingman Sanka-  
ranarayana Srinivasa Sastri,

Member of the Indian Council of State;

The President of the Republic of China :

Mr. Sao - Ke Alfred Sze, Envoy Extraordinary and Minister Plenipotentiary at Washington ; Mr. V. K. Wellington Koo, Envoy Extraordinary and Minister Plenipotentiary at London ; Mr. Chung-Hui Wang, former Minister of Justice ;

The President of the French Republic :

Mr. Albert Sarraut, Deputy, Minister of the Colonies ; Mr. Jules J. Jusserand, Ambassador Extraordinary and Plenipotentiary to the United States of America, Grand Cross of the National Order of the Legion of Honour ;

His Majesty the King of Italy:

The Honourable Carlo Schanzer, Senator of the Kingdom ; The Honourable Vittorio Rolandi Ricci, Senator of the Kingdom, His Ambassador Extraordinary and Plenipotentiary at Washington ; The Honourable Luigi Albertini, Senator of the Kingdom ;

His Majesty the Emperor of Japan :

Baron Tomosaburo Kato, Minister for the Navy, Junii, a member of the First Class of the Imperial Order of the Grand Cordon of the Rising Sun with the Paulownia Flower ; Baron Kijuro Shidebara, His Ambassador Extraordinary and Plenipotentiary at Washington, Joshii, a member of the First Class of the Imperial Order of

the Rising Sun ; Mr. Masanao Hanihara, Vice-Minister for Foreign Affairs, Joshii, a member of the Second Class of the Imperial Order of the Rising Sun ;

Her Majesty the Queen of The Netherlands:

Jonkheer Frans Beelaerts van Blokland, Her Envoy Extraordinary and Minister Plenipotentiary ; Jonkheer Willem Hendrik de Beaufort, Minister Plenipotentiary, Charge d'Affaires at Washington ;

The President of the Portuguese Republic :

Mr. Jose Francisco de Horta Machado da Franca, Viscount d'Alte, Envoy Extraordinary and Minister Plenipotentiary at Washington ; Mr. Ernesto Julio de Carvalho Varconcellos, Captain of the Portuguese Navy, Technical Director of the the Colonial Office ;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows :

## ARTICLE I.

The representatives of the Contracting Powers having adopted, on the fourth day of February, 1922, in the City of Washington, a Resolution, which is appended as an Annex to this Article, with respect to the revision of Chinese Customs duties, for the purpose of making such duties equivalent to an effective 5 per centum ad valorem, in accordance with existing treaties concluded by

China with other nations, the Contracting Powers hereby confirm the said Resolution and undertake to accept the tariff rates fixed as a result of such revision. The said tariff rates shall become effective as soon as possible but not earlier than two months after publication thereof.

## ANNEX

With a view to providing additional revenue to meet the needs of the Chinese Government, the Powers represented at this Conference, namely the United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands, and Portugal agree:

That the customs schedule of duties on imports into China adopted by the Tariff Revision Commission at Shanghai on December 19, 1918, shall forthwith be revised so that the rates of duty shall be equivalent to 5 per cent. effective, as provided for in the several commercial treaties to which China is a party.

A Revision Commission shall meet at Shanghai, at the earliest practicable date, to effect this revision forthwith and on the general lines of the last revision.

This Commission shall be composed of representatives of the Powers above named and of representatives of any additional Powers having Governments at present recognized by the Powers represented at this Con-

ference and who have treaties with China providing for a tariff on imports and exports not to exceed 5 per cent. ad valorem and who desire to participate therein.

The revision shall proceed as rapidly as possible with a view to its completion within four months from the date of the adoption of this Resolution by the Conference on the Limitation of Armament and Pacific and Far Eastern Questions.

The revised tariff shall become effective as soon as possible but not earlier than two months after its publication by the Revision Commission.

The Government of the United States, as convener of the present Conference, is requested forthwith to communicate the terms of this Resolution to the Governments of Powers not represented at this Conference but who participated in the Revision of 1918, aforesaid.

## ARTICLE II.

Immediate steps shall be taken, through a Special Conference, to prepare the way for the speedy abolition of likin and for the fulfillment of the other conditions laid down in Article VIII of the Treaty of September 5th 1902, between Great Britain and China, in Articles IV and V of the Treaty of October 8th 1903, between the United States and China, and in Article I of the Supplementary Treaty of October 8th 1903, between Japan

and China, with a view to levying the surtaxes provided for in those articles.

The Special Conference shall be composed of representatives of the Signatory Powers, and of such other Powers as may desire to participate and may adhere to the present Treaty, in accordance with the provisions of Article VIII, in sufficient time to allow their representatives to take part. It shall meet in China within three months after the coming into force of the present Treaty, on a day and at a place to be designated by the Chinese Government.

### ARTICLE III.

The Special Conference provided for in Article II shall consider the interim provisions to be applied prior to the abolition of likin and the fulfillment of the other conditions laid down in the articles of the treaties mentioned in Article II; and it shall authorize the levying of a surtax on dutiable imports as from such date, for such purposes, and subject to such conditions as it may determine.

The surtax shall be at a uniform rate of 2 1/2 per centum ad valorem, provided that in case of certain articles of luxury which, in the opinion of the Special Conference, can bear a greater increase without unduly impeding trade, the total surtax may be increased but may not exceed 5 per cen-

tum ad valorem.

### ARTICLE IV.

Following the immediate revision of the customs schedule of duties on imports into China, mentioned in Article I, there shall be a further revision thereof to take effect at the expiration of four years following the completion of the aforesaid immediate revision, in order to ensure that the customs duties shall correspond to the ad valorem rates fixed by the Special Conference provided for in Article II.

Following this further revision there shall be, for same purpose, periodical revisions of the customs schedule of duties on imports into China every seven years, in lieu of the decennial revision authorized by existing treaties with China.

In order to prevent delay, any revision made in pursuance of this Article shall be effected in accordance with rules to be prescribed by the Special Conference provided for in Article II.

### ARTICLE V.

In all matters relating to customs duties there shall be effective equality of treatment and opportunity for all the Contracting Powers.

### ARTICLE VI.

The principle of uniformity in the rates of customs duties levied at all the land and maritime frontiers of China is hereby recognized. The Special

Conference provided for in Article II shall make arrangements to give practical effect to this principle; and it is authorized to make equitable adjustments in those cases in which a customs privilege to be abolished was granted in return for some local economic advantage.

In the meantime, any increase in the rates of customs duties resulting from tariff revision, or any surtax hereafter imposed in pursuance of the present Treaty, shall be levied at a uniform rate ad valorem at all land and maritime frontiers of China.

#### ARTICLE VII.

The charge for transit passes shall be at the rate of 2 1/2 per centum ad valorem until the arrangements provided for by Article II come into force.

#### ARTICLE VIII.

Powers not signatory to the present Treaty whose Governments are at present recognized by the Signatory Powers, and whose present treaties with China provide for a tariff on imports and exports not to exceed 5 per centum ad valorem, shall be invited to adhere to the present Treaty.

The Government of the United States undertakes to make the necessary communications for this purpose and to inform the Governments of the Contracting Powers of the replies received. Adherence by any

Power shall become effective on receipt of notice thereof by the Government of the United States.

#### ARTICLE IX.

The provisions of the present Treaty shall override all stipulations of treaties between China and the respective Contracting Powers which are inconsistent therewith, other than stipulations according most favored nation treatment.

#### ARTICLE X.

The present Treaty shall be ratified by the Contracting Powers in accordance with their respective constitutional methods and shall take effect on the date of the deposit of all the ratifications, which shall take place at Washington as soon as possible. The Government of the United States will transmit to the other Contracting Powers a certified copy of the proces-verbal of the deposit of ratifications.

The present Treaty, of which the English and French texts are both authentic, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to the other Contracting Powers.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington the sixth day of February, One Thousand Nine Hundred and Twenty-two.

# CONCLUSION

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In reading the complete account of the discussions of China's customs tariff at the Washington Conference and the later discussions on the floor of the United States Senate, one obtains a good idea of the varied and divergent forces at play in the consideration of this complicated problem. In reading intelligently between the lines of the various official statements made by the several delegates one readily discovers the vested and other interests these delegates are attempting to protect by specious arguments poorly veiled in insincere references to considerations for China's future welfare.

Americans, who have had generations of experience with tariff questions as political issues, are not easily fooled by clever arguments of special pleaders on tariff questions. It is for this reason that the question of China's tariff was discussed with more frankness in the United States Senate than in any other legislature of the countries interested or involved. If there is to be any break in the solidarity of the non-Chinese

parties to the Nine Power Treaty, which controls China's custom revenue, it must come from the United States and will probably be inspired by some of the leading members of the United States Senate.

China lost her fight for Tariff Autonomy at the Washington Conference. In fact her request for control of her own revenues was made in such a low voice that even Senator Underwood himself, who was chairman of the committee having the matter in hand afterwards denied on the floor of the Senate that China had ever asked for Tariff Autonomy. But in the same discussion he declared that he was ready to give China control of her own revenue and that China herself had the right to abrogate the tariff treaty. But from the standpoint of International Law the very treaty, upon the provisions of which the coming Customs Conference is called, postpones Tariff Autonomy at least for several successive periods of seven years. According to the treaty provisions, and other considerations of International

Law, China has hardly a chance to obtain Tariff Autonomy. Vast vested interests of foreigners who import to China, and even of those who export from China, will exert terrific pressure on the delegates to the Customs Conference to prevent even consideration of the question of tariff autonomy. The pressure will be secret, as it was at Washington, but it will be none the less powerful. As far as treaty stipulations are concerned the sacred-dont-touch character of China's customs tariff is well protected.

China must appeal to International Equity and as far as

equity is considered there is not a single valid argument against China having control of her own customs revenue. But the foreign delegates are not going to hand China anything she does not ask for, or even fight for. If the Chinese, delegates and others, fight hard enough for tariff autonomy they are certain to get it. The political situation at the present time is all in their favor on this issue. But the fight for Tariff Autonomy at the Customs Conference will have to be much harder than that made at the Washington Conference if another failure is to be avoided.















